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معهــد ابراهيــم أبو لغــد للدراســات الدوليــة
Ibrahim Abu-Lughod Institute of International Studies

Palestinian Refugees:

A Comparative Approach

The Forced Migration and Refugee Unit
& The Birzeit Strategic Studies Forum

The Ibrahim Abu-Lughod Institute of International Studies

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Ibrahim Abu-Lughod Institute of International Studies

Biography	
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Youssef Courbage	Holds a degree in Demography and Urban Planning. He is a Senior Researcher at the Institut National d'Etudes Démographiques (INED), Paris, and has published extensively in the field of comparative demography, with a particular focus on the Middle East.
Roger Heacock	Professor of History at Birzeit University. His publications have focused on European, Mediterranean and international history in the modern and contemporary era, and more recently on the historiography and epistemology of temporality and spatiality.
Alexander Kouttab	A previous advisor to the Palestinian leadership on permanent status negotiations with Israel (2009- 2011). He is currently working at the Ibrahim Abu-Lughod Institute of International Studies, and is coordinator of the Birzeit Strategic Studies Forum.
Caroline Mall-Dibiasi	PhD in Government and International Affairs from Durham University, UK and is a Jean Monnet Fellow in the Migration Policy Center of the European University Institute, Florence, carrying out a research project entitled "Palestinian Migrant Workers in the Israeli Labour Market: Traversing Separation?"
Majid Shihade	Faculty member at the Ibrahim Abu-Lughod Institute of International Studies at Birzeit University, Palestine. His research focuses on modernity, violence, identity, and the anthropology and politics of knowledge. His book, "Not Just a Soccer Game: Colonialism and Conflict among Palestinians in Israel," was published in the 2011 by Syracuse University Press.
Jaber Suleiman	Palestinian independent researcher/consultant. He was a Visiting Study Fellow at the Refugee Studies Program, University of Oxford. He worked as a consultant for the Palestinian program of UNICEF in the Palestinian refugee camps of Lebanon (Jan 2007 – May 2010). He is a policy advisor of Al-Shabaka (Palestinian Policy Network).

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Introduction

The Forced Migration and Refugee Unit

This book comes as a part of the series of publications of the Forced Migration and Refugee Unit at the Ibrahim Abu-Lughod Institute of International Studies, and it addresses many crucial issues on refugees on both the International and national levels. This book presents a collection of articles which deal with the issue of Palestinian refugees from different aspects, including the social, demographic, political and legal status of Palestinians, especially in light of the persistent Israeli colonization of Palestine. These articles are published on the Forced Migration and Refugee Unit website and were written for different reasons. Some of these articles were presented in one of the IALIIS or FMRU's events, such as in workshops or conferences, while others were written for the purposes of research competition organized by the Unit, and one of the papers was a collaborated project with other organizations, such as AL-Shabaka. This collection also includes a number of book reviews written on the Internally displaced Palestinians in Israel and Palestinian identity.

In the FMRU research competitions' publications, Zarefa Ali discusses the case of Palestinians during operation Cast Lead in 2008 -2009 who sought to gain the protection of the Egyptian government, but instead they were denied asylum. In her paper, she tries to explore whether Egypt can be held accountable for the breach of international law, namely the principle of non-Refoulement. In her second article, which is based on a comparative study between the status of the internally displaced persons in Israel and in South Africa from 1948 until 1966, she sheds light on the conditions of both the internal displaced persons in Israel and in South Africa, most of whom were forced to subordinate to a separatist government which inflicted apartheid in all aspects of life whether economically, socially, or educationally.

Concerning the demographic situation of Palestine as a whole, Youssef Courbage's article, which was submitted in a workshop on "The Internal and External Movement of Populations and its Impact on the Palestinian Authority/ Future State", discusses the "Demographic Trends and Challenges in case of Statehood in Palestine, 2012 -2048". He presents a future outlook and analysis of Different demographic phenomena in Palestine and Israel. Whereas in Roger Heacock's paper, which was submitted as part of the FMRU research project, he demonstrates how far the public consciousness of Palestinian institutions, families and individuals has yet to move before any set of documents can transcend colonial shackles in which materials are hidden or doctored, for or against the colonizers, and in which each holder sees her- or himself as a threatened fighter surrounded by enemies.

From his side, Alexander Kuttab discusses "The rights of Palestinian Refugees: Current Challenges and Possible Solutions", in which he argues that there is a lack of diplomatic initiatives on the issue of Palestinian refugees for the last two decades. His paper is a assessment of possible strategic options aimed at reinforcing the political interest on

the refugee question. Regarding the most recent and intriguing topic on the Palestinian arena, in Jaber Suleiman's policy brief he examines Palestinians in Lebanon's perception on the UN Bid which comes in a time when Palestinians are struggling to gain recognition of their full rights by the Lebanese government.

The second part of the book consists of book reviews carried out by Majid Shihade, in which he reviewed Ilan Pappe's book entitled *The Forgotten Palestinians: A History of the Palestinians in Israel,* in addition to *PALESTINE ONLINE: Transnationalism, the Internet and Construction of Identity* written by Miriyam Aouragh.

Egypt's Obligations towards Palestinian Asylum Seekers during Operation Cast Lead (2008-2009)[1]

Zarefa Ali

Introduction

On December 27th 2008, Israel launched a raid on Gaza leading to the death of over a thousand Palestinians. This attack was known as Operation Cast Lead and lasted until January 18, 2009. During this vicious and inhumane attack, many violations of international law were identified, such as the killing of innocent civilians, the destruction of most of the infrastructure, the use of internationally banned weapons, the use of excessive force, and several others. Despite the fact that Israel has violated many principles of international law during its invasion of Gaza, Israel is not the only one who should be held accountable for the breach of international law. As Israel continued in its invasion of Gaza, many Palestinians fled to the Rafah border crossing and strove to cross the border in order to save their lives and attain the protection of Egypt. Yet the Egyptian government insisted on blocking the flow of Palestinian asylum seekers, this contradicts with the obligation of states towards employing the non-refoulement principle, which I will explain later, and providing temporary protection for refugees. Thus, in this study I intend to investigate whether Egypt was obliged to allow Palestinians through the Rafah crossing at its borders.

The question this research aims at answering is: During the Israeli invasion of Gaza, was Egypt legally obliged to allow fleeing Palestinians though its borders?

Operation Cast Lead and the Breach of International Law

Israel's war on the Gaza Strip led to over a thousand deaths and caused unprecedented destruction, as noted above. The scope of the destruction and the injuries caused to the population in Gaza during this operation were enormous. Around 1,390 Gazans were killed, and of these 759 were civilians who did not take part whatsoever in the hostilities. Over 3,500 Palestinians were wounded, over 3,500 homes were destroyed, and nearly 20,000 Gazans were left homeless. The brutality of the Israeli attacks was also extended to industrial, agricultural, electricity, sanitation and water facilities (B'Tselem 2009, 3). These were some of the reasons for the mass influx of Gazans towards the Egyptian border hoping to seek refuge. Yet Egypt refused to open its borders and withstood criticism for keeping the crossing closed during the Israeli invasion of Gaza (Slackman 2011, 4).

The inexplicable crimes the Israeli defense forces perpetrated against the civilians of Gaza demonstrates that what took place in Gaza indeed falls under the category of

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[1] This research paper won in the Forced Migration and refugee Unit research competition in 2012, and was written for the International Refugee Law course offered as part of the concentration in Forced Migration and Refugees.

crimes against humanity. As a result, the Israeli government should be held accountable for its violation of many international laws such as, disproportionate use of weapons, targeting civilians and civilian infrastructure, and indiscriminate attacks. According to the UN fact-finding mission in Gaza:

From the facts gathered, the Mission finds that there were numerous violations of international humanitarian law and human rights law committed in the context of these detentions. Civilians, including women and children, were detained in degrading conditions, deprived of food, water and access to sanitary facilities, and exposed to the elements in January without any shelter (Report of the United Nations Fact Finding Mission on the Gaza Conflict 2009, 20).

The killing and injury of Palestinian civilians by the Israeli military forces clearly showed that Israel committed war crimes and violated international humanitarian law and international human rights law, and can be considered violations of the principles of distinction and proportionality; these are some of the most basic principles of international humanitarian law established to ensure that civilians remain outside of hostility. Also, there were violations of customary international law for the Israeli attack was not only an attack intended to kill but also to spread terror amidst civilians. The raid also violated the Fourth Geneva Convention, such as Article 147 concerning willful killings and willfully causing great suffering. It is important to note that Israel purposefully attacked the foundations of civilian life in Gaza such as the industrial, food production, and water infrastructures. All of these acts are violations of international humanitarian Law, such as Article 52 of Additional Protocol I of the Geneva convention which bans the attack on civilian objects, which are defined as non-military objects. The attack also violated Article 54 (1) and (2) of Additional Protocol I which prohibits starving civilians as a tactic of warfare: "It is prohibited to attack, destroy, remove or render useless objects indispensable to the survival of the civilian population, such as foodstuffs, agricultural areas for the production of foodstuffs, crops, livestock, drinking water installations" (Report of the United Nations Fact Finding Mission on the Gaza Conflict 2009, 247 -257). These are only some of the international legal violations Israel committed against Gazans and that were mentioned in the United Nations Fact Finding Mission on the Gaza Conflict, which aims at revealing the violations of international law by both Israel and Hamas. From all of the above, it is apparent that though Israel obviously violated international law, the UN's inability to prosecute and hold Israel accountable for these unjustifiable crimes is part of the contradictions inherent to the UN's purpose of ensuring security and world peace.

Is Gaza an Occupied Territory?

Before analyzing Egypt's position and its excuses in returning Palestinian asylum seekers to Gaza, it is important to discuss the status of the Gaza Strip. Gaza falls under the category of an occupied territory, and as a result the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War applies to the Strip. In other words, Egypt, which is a signatory to the Fourth Geneva Convention, should have provided protection to Palestinian asylum seekers who were fleeing an occupied territory which

was under attack.

There have been many debates on the status of the Gaza Strip in the aftermath of Operation Cast Lead, in which some questioned whether Gaza can be regarded as an occupied territory after the disengagement of Israel from the Strip in 2005. The importance of determining the status of Gaza is because it has implications for the rules by which the occupied territory is subject to, such as the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War. Some claimed that under the narrower "actual" control test, Israel could no longer be considered a belligerent occupant in Gaza (Power 2009, 1- 5). However, Article 2, Paragraph 2 of the Fourth Geneva Convention states that, "The convention shall apply to all cases of partial or total occupation of the territory of a high contracting party, even if the said occupation meets with no armed resistances" (Takkenberg 1998, 219). Physicians for Human Rights Case (2009), in response to Operation Cast Lead, was the first group that made a significant attempt to address the uncertain position of the "potential" control test in international humanitarian law. In September 2005, Israel had dismantled the Gaza settlements, removed Israeli Defense Forces from the territory and unilaterally declared an end to the forty-year occupation of the Gaza Strip. Conversely, the presence of military troops in Gaza during Operation Cast Lead reopened the question of Gaza's status under international law (Power 2009, 1 -5). Although Israel withdrew from the Strip, it continued to control the borders and also imposed a prolonged blockade on the strip which continues until today. This shows how Gaza can be defined as an occupied territory, and consequently, Israel should have implemented the Fourth Geneva Convention and provided protection to Gazans instead of unleashing its ruthless invasion and siege.

According to the Hague Convention (1907) and the Fourth Geneva Convention (1949), which impose general responsibility on the occupying state for the welfare and safety of the occupied civilians, Israel had an obligation, and still does, towards the Gaza Strip, for the laws of occupation apply if a state has "effective control" over the territory in question. Furthermore, the broad scope of Israeli control in the Gaza Strip, exists despite the actual absences of the Israeli military in the strip, leads to the reasonable conclusion that this control amounts to "effective control," and thus the laws of occupation continue to apply (B'TSELEM 2012). When Israel launched Operation Cast Lead on Gaza, the status of the territory was, and remains to be, an occupied one. Consequently, there are certain rules and obligations restricting the occupier from acting freely. Israel's refusal to recognize the status of Gaza as an occupied territory reveals its persistence in escaping its obligations enshrined in international humanitarian law, especially the Fourth Geneva Convention.

I referred to the legal status of the Gaza strip, because during Operation Cast Lead, Egypt actually argued that under international law the Gaza Strip is technically still an occupied territory, despite the withdrawal of Israeli forces and settlers in 2005 (Khalidi 2009, xxxi). Nevertheless, Egypt was complicit with the Israeli crimes and blockade of Gaza.

The Status of Palestinian Refugees in International Law

The status of Palestinian refugees in international law remains vague, and their exclusion from the 1951 Refugee Convention Relating to the status of refugees further exacerbates their situation. However, this should not be considered a reason for states to not grant Palestinian asylum seekers refuge. In other words, Egypt cannot rely on the ambiguity in the status of Palestinian refugees in order to escape its international obligations. Even though Palestinians are excluded from the 1951 refugee convention, the principles included in this convention do indeed apply to Palestinians, particularly the non-refoulement principle which obliges states to not return any refugee to a territory or country where his/her life would be at risk of persecution for various reasons. Egypt is, in fact, a signatory to the 1951 convention and thus should have provided protection to Gazans through implementing the non- refoulement principle. Despite the fact that many refugees have benefitted from the 1951 Refugee Convention, it is mainly Eurocentric and many groups have been excluded from it. Palestinian refugees are indirectly excluded because they already seek the protection and services provided to them by the United Nations Relief and Works Agency (UNRWA). According to Article 1D of the 1951 Convention:

This convention shall not apply to persons who are at present receiving aid from organs or agencies of the United Nations other than the United Nations High Commissioner for refugees protection or assistance (Takkenberg 1997, 56).

Apparently --and paradoxically-- Palestinians cannot benefit or be included under the mandate of this convention, unless for some reason UNRWA is dismantled and no longer provides services to Palestinian refugees. The services UNRWA provides to Palestinian refugees registered under its mandate are focused on providing food, shelter, clothing, education, and basic health care, among others (Takkenberg 1997, 31). Furthermore, although the services UNRWA provides to Palestinian refugees in Gaza are crucial and attempt to meet their basic everyday needs, they remain scarce due to the decline in international funds for the agency; the Israeli blockade, on the one hand; and Egyptian refusal to open its borders, on the other hand.

It is noteworthy that although the 1951 Convention does not provide refugees with the right to be granted asylum, Article 14 of the Universal Declaration on Human Rights notes the "right to seek asylum but does not contain a right to be granted asylum" (Takkenberg 1997, 89). Though Egypt had the right to either grant or reject Palestinian asylum seekers' claims, according to the 1951 convention it should have at least ensured another country was willing to grant them protection and asylum--this principle is known as "country of first asylum" (Takkenberg 1997, 89). Despite the exceptional case of Palestinian refugees in international law, particularly in the 1951 Refugee Convention, some of the principles included in this convention can apply on Palestinian refugees such as the non- refoulement principle. Paradoxically, Egypt's refusal to implement this sacred principle reveals its intention to escape the obligations and responsibilities expected of states towards refugees. Apparently the complex status of Palestinian refugees has led to a protection gap, wherein Palestinian refugees do not receive the protection of the occupier nor the protection of a neighboring country (Egypt). Reviewing the status of

Palestinian refugees in international law is important in showing how during the Israeli siege on Gaza, Palestinians who fled to the Rafah border did not attain the protection of Egypt, as will be discussed in the following sections.

Egypt's Obligations Towards Palestinian Asylum Seekers and the Principle of Non-Refoulement

One of the most basic principles in international refugee law is the principle of "non-refoulement," as mentioned previously. According to Article 33 of the 1951 Refugee Convention:

No Contracting State shall expel or return ("refouler") a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion (The 1951 Refugee Convention Relating to the Status of Refugees, 1951).

So any state which is a signatory to this convention is required to abide to this fundamental principle. There have been many debates about whether the principle of non-refoulement is considered customary or contractual law. For instance, Goodwin Gill argues that the non-refoulement principle is customary and extends to non-Convention refugees. On the other hand, Hail Bronner opposes the customary nature of the principle of non-refoulement (cited in Chimni 2011, 86). In this study I adopt the notion of the customary nature of the principle of non-refoulement, which may extend to non-Convention refugees, in other words Palestinian refugees; it follows that Egypt cannot rely on the exclusion of Palestinians from the 1951 Convention in order to escape its obligations in implementing this principle.

Moreover, the principle of non-refoulement is also included in several international human rights treaties, for example, the 1984 Convention against Torture, which prohibits the forcible removal of persons to a country where there is a real risk of torture *(Convention against Torture, 1984)*. It is also enshrined in Article 13 of the International Covenant on Civil and Political Rights (ICCPR) which notes that "anyone who is lawfully within the territory of a state shall not be expelled from that state without due process" (Alborzi 2006, 220). Egypt is a signatory to the 1951 Refugee Convention, the 1984 Convention against Torture, and the ICCPR. This shows that Egypt cannot avoid its obligations of implementing the principle of non- refoulement. Yet during the Israeli war on Gaza, Egyptian officials claimed that the closure of the Rafah border and Egypt's refusal to open it was based on its position of not recognizing Hamas as a legitimate regime (Kadman 2009, 47). Not only that, but Egypt also claimed that opening its border with Gaza would be a threat to its national security (Slackman 2011, 4). Egypt has given many [other] excuses for refusing to open the Rafah border, for instance, the Egyptian government states that if it were to take full responsibility for opening the Rafah crossing and allow goods and persons to cross freely, that would enable Israel to escape its own responsibilities (Khalidi 2009, xxx). It further argues that "its hands are tied by its international obligations. This would only be true if Egypt were to insist on unilaterally

observing the 2005 agreement, which has not been in force since July 2007" (Khalidi 2009, xxx). So Egyptian officials argued that it was more important to abide by the joint Israeli-Egyptian agreement regarding the Gaza borders, instead of its international obligations. Regardless of the Egyptian governments' excuses in refusing to open the Rafah crossing, which aimed at deflecting the media's attention from its inexplicable act in closing the border; Egypt could have played a significant role in mitigating the crisis in Gaza by allowing people and goods through its borders.

Article 32 of the 1951 Refugee Convention allows an exception for not implementing the non-refoulement principle, namely: "The Contracting States shall not expel a refugee lawfully in their territory save on grounds of national security or public order" (The 1951 Refugee Convention Relating to the Statues of Refugees). However, Palestinian asylum seekers did not embody a threat to Egypt's national security, and the reasons Egyptian officials gave so as to justify their rejecting the influx of Palestinian refugees during the beginning of the Israeli raid on Gaza were inexcusable. This shows how Egypt should have redirected its policy and decisions so that it would comply with the exceptional case and the catastrophic destiny that befell Gaza in 2008- 2009.

While Gazans fled to the Egyptian crossing border (Rafah), Egyptian forces, some firing in the air, tried to push them back into Gaza (Barazak and Laub 2008). On the one hand, it is basically impossible for Gazans to leave the territory from the Israeli side, and on the other hand Egypt refused to allow them through the Rafah crossing; meaning that Gazans are entrapped on both sides and are left in a frustrating dilemma. This is a clear violation of the principle of non-refoulement which supposedly protects people from being returned to the frontier where they would be at risk of persecution. This principle is considered a component of customary International law and is as a result binding on all states (The State of The World's Refugees 2006, 371- 375). Thus by pushing Gazans back to a location where their life is in immediate danger, Egypt has violated the principle of non- refoulement and should be held responsible.

International Humanitarian Law and Providing Protection to Palestinian Asylum Seekers

The case of providing protection to individuals or groups who no longer seek, or are able, to gain the protection of their country is one of the most vexing issues the international community faces. The international organization which is entitled to provide protection and assistance to refugees around the world is the United Nations High Commissioner for Refugees (UNHCR). The role of the UNHCR is manifested in promoting the implementation of refugee norms and reminding states of their obligation to adhere to human rights norms in their asylum and refugee admission policies (Loescher 2003, 4). However, in order for refugees to receive the protection of the UNHCR they must fall under the definition of a refugee according to the 1951 Refugee Convention which defines a refugee as any person, "Who as a result of events occurring before 1 January 1951 and owing to a well founded fear of being persecuted for reasons of race, religion, nationality … is outside the country of his nationality and is unable … to avail himself of the protection of that country" (Takkenberg 1998, 55). Nonetheless

in the Palestinian case, for more than sixty years they have been denied international protection and this is what distinguishes them from other refugees, and as a result they are excluded from the 1951 convention because they already receive the protection of UNRWA (Takkenberg 1998, 13).

In times of war, there are certain international rules which limit the effects of armed conflict and prohibit the conflicting parties from causing damage to civilians' lives and livelihoods, such as international humanitarian law which consists of the Geneva Conventions and the Hague Conventions. Egypt is a signatory to the 1949 Geneva Convention and Article 27 of the Fourth Convention relative to Protection of Civilian Persons in Time of War asserts that:

Protected persons are entitled, in all circumstances, to respect for their persons, their honor, their family rights, their religious convictions and practices, and their manners and customs. They shall at all times be humanely treated, and shall be protected especially against all acts of violence or threats thereof and against insults and public curiosity (Fourth Geneva Convention Relative to the Protection of Civilian Persons in Time of War 1949).

During the launch of Operation Cast Lead, Egypt was required to provide protection to Palestinian asylum seekers who endeavored to cross the Rafah border. Palestinian civilians were directly targeted by Israeli bombardment which exacerbated Palestinian loss, whether in terms of injury to Palestinians, the rise of death tolls, or physical or psychological injuries. And when Egypt finally opened its borders, it continued to put restrictions on the flow of these assistance and on the flow of displaced Palestinians. As a result Egypt has been accused of collusion against Palestinian civilians(Rashed 2009, 170 -171). Instead of providing humanitarian assistance and providing protection to Gazans, Egypt not only blocked the entrance of humanitarian aid for several days, but also imposed many restrictions on the entry of aid. Hence Egypt should have acted in accordance with the legal obligations of states enshrined in the Fourth Geneva Convention which aims at providing protection to a person who at a giving moment finds him/herself in a conflict or occupation (Takkenberg 1998, 206). As previously mentioned, the Gaza Strip falls under the category of an occupied territory, thus International humanitarian law should have been implemented.

In addition to violating the non-refoulement principle, Egypt also violated a number of international humanitarian laws such as, Article 59 of the Fourth Geneva Convention which includes that: "Such schemes, which may be undertaken either by States or by impartial humanitarian organizations such as the International Committee of the Red Cross, shall consist, in particular, of the provision of consignments of foodstuffs, medical supplies and clothing. All Contracting Parties shall permit the free passage of these consignments and shall guarantee their protection" (Fourth Geneva Convention Relative to the Protection of Civilian Persons in Time of War 1949). Yet Egypt refused to allow the free passage of foodstuff, medical assistances, and even doctors. For instance on December 31st, 2008 a report stated that Egypt closed its borders to Egyptian, Libyan and Qatari humanitarian assistance. These critical supplies were kept on hold at the Egyptian border, although the lack of medical supplies in the strip led to the inability

of doctors to treat fatal injuries (Dabah 2008). This clearly revealed how Egypt violated international humanitarian law, as it persisted in closing its border in the face of these crucial supplies, which could have saved the lives of many Palestinians.

Can Egypt be Held Accountable for the Breach of International Law?

The question of whether Egypt can be held responsible as to violating international law is disputable, because holding Egypt responsibility for returning Palestinian asylum seekers requires them to actually enter the border. On the other hand, the act of returning Palestinians to where they face immediate persecution is in itself illegal. It is important to stress that the lack of literature addressing this matter only complicates the situation. Nevertheless, international responsibility arises from an internationally wrongful act which constitutes a serious breach by a state of its obligations (Jorgensen 2000, xiii). The basic principle of "state responsibility" in international law provides that any state who violates its international obligations must be held accountable for its acts. The notion of state responsibility means that states which do not respect their international duties are responsible for immediately stopping their illegal actions and making reparations to the injured. Most importantly, a state is bound to act according to international treaties it has signed (Diakonia 2011). Also ,there is a collective responsibility of states as members of the international community to protect refugees (Hurwitz 5, 2009).

As previously mentioned, Egypt is a signatory to the 1951 Refugee Convention, the 1984 Convention against Torture, and the Universal declaration of Human Rights. Each of these treaties contains a certain obligation on the signatory states, for instance Article 33 of the 1951 Refugee Convention requires that states do not return a person to a territory where he/she will face persecution. This is a fundamental principle, which forms part of international customary law, and is binding on all states and extends to non convention refugees; thus it is applicable on Palestinian refugees who are not included in the 1951 convention. On the other hand, Article 13 of the Universal Declaration of Human Rights states that, "(1) Everyone has the right to freedom of movement and residence within the borders of each state. (2) Everyone has the right to leave any country, including his own, and to return to his country" (Universal Declaration of Human Rights 1948). Consequently, when Egypt closed its borders in the face of Palestinian asylum seekers, it not only violated the principle of non-refoulement, but also the freedom of movement mentioned in the Universal Declaration of Human Rights, in addition to the Fourth Geneva Convention which calls for party states to provide and allow the free passage of humanitarian assistance.

According to an article in The News York Times, Egypt was perceived as having acceded to Israel's action by sealing its border with Gaza and forcing back at gunpoint many Palestinians who were striving to escape the destruction. Most importantly, witnesses at the Rafah border crossing described a chaotic scene as young men tried to force their way across into Egypt, amid random exchanges of gunfire between Hamas and Egyptian forces (Khodary and Kershner 2008). Former Egyptian President Hosni Mubarak's declaration of Egypt's policy in closing the Rafah border crossing during operation

cast lead was resonated in the Arab media. Egypt was portrayed as cooperating with the Israeli-imposed closure and as turning a cold shoulder to the bitter suffering of the million and a half Palestinians living in Gaza (Meital 181). This shows how Egypt intentionally blocked the entrance of many Palestinians at the Rafah crossing border and threatened to shoot anyone who tried to cross.

Concluding all that was said earlier, Egypt should be held responsible for the violation of international law, and should provide reparation to injured Palestinians. Nonetheless, some actors in the international community was preoccupied with prosecuting Israel and holding it responsible for the grave breach of international law during its brutal invasion of Gaza in winter 2008 -2009, but Egypt's role seemed insignificant at the time. This is one of the reasons as to why there appears to be a lack of literature written about Egypt's responsibility during Operation Cast Lead, and this also implies the crucial need to address the issue and gather solid evidence so as to hold Egypt responsible for its breach of international law.

Conclusion

In conclusion, throughout this study it was apparent that during the Israeli invasion of Gaza, Egypt purposefully closed the Rafah border-crossing in the face of Palestinians trying to escape the chaos and destruction in Gaza. Due to the lack of literature written about the matter, I endeavored to reveal the status of the Gaza Strip and of Palestinian refugees in international law so as to stress that the exceptional status of Palestinian refugees should not lead to the underestimation of their legitimate and? desperate need of protection and assistance, in particular during Operation Cast Lead. Through referring to articles from newspapers and periodicals, it was apparent that Egypt not only blocked the entrance of Palestinians but also used violence and threatened to shoot anyone who dared to try to cross the Rafah Borders.

Despite the fact that Palestinians are excluded from the 1951 Refugee Convention, some of the Convention's principles, such as the principle of non-refoulement, should have been implemented. Although states have the right to grant asylum and refuse the claim of any person who seeks the refuge of that country, yet a state is required to ensure another country is willing to provide refuge and protection to asylum seekers. Egypt not only refused to grant asylum to Palestinians who tried to escape Israeli bombardment and invasion, but also did not ensure the protection of another state that was willing to receive them. By refusing to grant at least temporary protection to Palestinians, Egypt implicitly violated international refugee law, by refusing to implement the principle of non-refoulement, and so I conclude it should be prosecuted and held responsible.

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The Internally Displaced Persons In Israel and South Africa From 1948-1966[1]

Zarefa Ali

Introduction

The year 1948 has been imprinted on history as the era of segregation in Palestine and in South Africa, during which the ethnicity or color of a certain group gave it the "sacred" right to dominate, segregate, and displace the indigenous peoples of the land who were allegedly inferior. In 1948, the state of Israel was established and in South Africa the National Party came to power at this moment; subsequently, these two regimes strove to implement discriminatory policies so as to segregate the indigenous of the land from the colonial powers [in order to maintain the latter's ruling force]. I use the term indigenous to mean the rightful owners of the land rather than the autochthonic inhabitants. Hence, during May 1948 one of the most drastic events in the Middle East took place that was to shape the past, present, and future of the Palestinians. The Zionist forces occupied Palestine, destroyed numerous villages, perpetrated massacres, and displaced Palestinians. Thus hundreds of thousands from the indigenous population fled the country and some remained and became internally displaced in their own lands. These internally displaced Palestinians were subjugated to a racist military government which deprived them of their lands, rights, and freedom. The focus of this study is on the internal displaced population in Israel who were confronted with an oppressive and distinctive situation.

Moreover, in 1948, South Africa was governed by the National Party which executed cruel, racist, and degrading laws against the Black population. This government allocated ten areas for Blacks which were known as the "homelands," and the Black population was forced to live in these fragmented areas. In order to systemize and perpetuate Apartheid, the National Party government deployed its racist ideology in the form of regulations restricting Blacks from their rights and displacing them in their own lands. The period from 1948 until 1994 was known as the epoch of Apartheid; the purpose behind the imposition of these racist regulations was to separate Whites (Afrikaners) from the non-Whites. Anyone who did not fall within the category of White in South Africa was deprived of his/her human rights and was imprisoned in the so-called homelands.

The internally displaced in both Israel and South Africa were forced to submit to ruling or hegemonic powers who tried to take control of the entirety of the lands and who executed intolerable policies in order to pressure the native population to leave. The aim of this research is to compare the status of the internally displaced Palestinians in Israel and the internally displaced population in South Africa from 1948 until 1966. The doctrine of both the Israeli and the Afrikaner regimes of rule can be understood as

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a settler/ colonialist perspective, where the occupying population is entitled to rule because it is more civilized than the backward and barbaric indigenous peoples who are ostensibly incapable of self-determination.

Research Question

My research questions: What was the nature and specific practices used by both the Israeli and the South African regimes, and what are the similarities and differences between both regimes in separating the internal displaced persons in South Africa and Israel from whites and Jews?

Hypothesis

My hypothesis is that the policy of the Israeli and the South African governments, ever since the establishment of both, was based on Apartheid and this policy was swiftly enforced throughout the land of which the colonizers claimed to be the "inherent" owners. Thus all means were justified in ensuring their dominance over the majority of the population, and both authoritarian governments considered the idea of depriving the indigenous of their sacred rights and imposed racial segregation in all aspects of life. The implementation and usage of the term Apartheid in South Africa is different from that in Israel. In South Africa Apartheid was based on skin color and in Israel Apartheid was based on racial identity, rather than color. Thus some question whether the term Apartheid can actually apply to Israel, however the Israeli state apparatus systematically discriminates against its Palestinian citizens, justifying the usage and adaptation of the term. While comparing the status of both the internal displaced persons (IDPs) in Israel and South Africa, it is crucial to point out that the aim of this study is not to undermine the status of one and amplify the other, but rather to reveal the uniqueness of the position of the IDPs in both countries. Despite the fact that the systematic way in which segregation was enforced on the IDPs in Israel and South Africa differs across both contexts, yet the ultimate goal of both regimes is shockingly equivalent.

Before shedding light on the situation of the IDPs in Israel and South Africa, it is vital to present a brief summary of how these populations became internally displaced in their own lands.

Overview of the 1948 Catastrophe

In November 1917, British Foreign Secretary Arthur Balfour declared Britain's support for a "Jewish National Home in Palestine ... it being clearly understood that nothing shall be done to prejudice the civil and religious rights of the existing non-Jewish communities" (cited in Atran 1989, 271). Nevertheless what actually took place in Palestine before, during, and even after 1948 was the exact opposite when it came to civil and religious rights. The British Empire seized control of Palestine as a means of ensuring their so-called Declaration to the Jews, and subsequently the British mandate over Palestine was established in 1922. When the British mandate ended in May 1948, on 14th May, the state of Israel was simultaneously created as a result of the 1948 war, known to the

Israelis as the war of independence and to Palestinians as the Nakba. This war led to the creation of the state of Israel on 78 percent of historic Palestine, and was the major cause of the formidable destruction of much of Palestinian society and lands. The war crimes that occurred in destructing and acquiring lands and slaughtering the indigenous population were perpetrated by the Zionist Yishuv--a predominantly European settler community that migrated to Palestine from 1882 to 1948 (Masalha 2005, 1). While these settlers relentlessly occupied Palestine, dispossessed its inhabitants, and perpetrated inhuman acts against them, the Arab countries decided to send their troops under the lead of the All-Arab Volunteer Army (ALA). However, the imbalance of power between the Zionist forces and the ALA was excruciating that to the extent they formed no real threat to the more advanced Zionist forces. The war of 15 May, 1948 took place between a well-trained, highly organized, and well-equipped Zionist army and an ALA that lacked coordination, motivation, military training, and weapons (Pappe 2007, 129). The inevitability of the war's outcome led to the creation of a massive refugee problem in which hundreds of thousands of Palestinians were displaced and forced to flee to neighboring Arab countries, wherein they were housed in refugee camps.

Moreover, about 90 percent of the Palestinians in the territory occupied by the Zionist forces in 1948 were driven out, mainly by military pressure including massacres, as a very large number of them left at gunpoint, and also due to psychological warfare. The war provided the opportunity and necessary context for the founding of a Jewish state, in which the Zionist's main concern was to de-Arabize the area as much as possible, culminating in the dispossession of the Palestinian people. The minority of Palestinians who remained behind In 1948 are estimated to be about 160,000, many of whom became internal refugees in their own lands. These IDPs became second-class citizens of the state of Israel, and were subordinated to a system of military administration by a government that had confiscated the bulk of their lands (Masalha 2005, 1). Beyond the borders of the new state, Israel also refused to permit the internally displaced Palestinians to return to their homes and villages (Boqa'I 2005, 73). Anyone who dared try to return to his/her land and village was shot at cold-bloodedly; thus the tactic of intimidation was enforced against the refugees who strove to return to their homes.

From all of the above, it is clear that many Palestinians who remained in what became the state of Israel became IDPs in what used to be their lands (Masalha 2005, 1). Although until today the exact number of the internally displaced Palestinians in Israel during 1948 is unknown, the Israeli project to undermine their status and consider them as a demographic threat is vividly apparent.

Overview of The Colonization of South Africa

It is essential to situate the segregation policy adopted by the Apartheid South African government in the context of the colonization of South Africa in order to understand it more fully. Apartheid was not a distinctive ideology which came forth only with the appearance of the Afrikaner nationalists, but rather it emerged over time from the accumulation of segregationist policies from the early period of colonization.

South Africa was colonized by the Dutch and English in the seventeenth century; the

Cape Town colony was founded in 1652 in order to supply Dutch ships with food and water as they continued their journey to the West Indies. South Africa was to maintain this colonial character for centuries, and the indigenous societies of South Africa were subjected to the constant pressure of the rapid encroachment of the European world (Moerdijk 1981, 17). For instance, after the foundation of the Cape colony, Dutch, French, and German inhabitants migrated to South Africa, and the descendants of these groups became known as the Boers. Following the first British occupation in 1795, they dispossessed many of the indigenous inhabitants, and when the British annexed the Cape of Good Hope in 1806, several Dutch, French and German settlers moved inland to the Transvaal and Orange Free State (Gailey, Afrikaners).

In addition, the system of vigorous racial discrimination characterized this colonial society from the late eighteenth century onwards. The whites in South Africa enslaved the indigenous peoples throughout centuries and by the turn of the 18th century, race had become one of the most critical factors in determining separation within the society and creating new social tensions. The emancipation of the African slaves in 1838 led the colonial authorities in South Africa to take extra measures so as to implement a new order of domination. By the 1870s, during the industrialization of South Africa, the Whites had become so accustomed to domination and privilege that they excluded Blacks from the state, church, and even from some residential areas (Gilimoee and Schlemmer 1989, 2 -10). During British colonization, however, many Afrikaners refused to live under British rule, hence there was a series of migrations in the 1830s and 1840s, which became known as the Great Trek. These migrants established the Orange Free State and the South African Republic (the Transvaal) which were independent republics. With the discovery of gold and diamonds, the British were determined to seize the land from the Boers, resulting in the Boer War which lasted for 3 years (1899 -1902). The war ended with the defeat of the Afrikaners and as a result, the Afrikaner republics were absorbed by the British-controlled Union of South Africa in 1910. However, British control over South Africa did not last and the Afrikaners were able to rule South Africa between 1910 and 1994. In 1948, the National Party emerged and began to enact the policy of Apartheid. As a result, more than four million Blacks were forced to leave their lands in areas which were designated only for Whites. The Apartheid regime also introduced the policy of designating ten homelands for the Blacks, or what became known as Bantustans (Gailey, Afrikaners). It is clear that Apartheid did not emerge simply after the coming to power of the National Party, but rather was a cumulative effect of centuries of Black enslavement, dispossession, and marginalization. In 1948, the Afrikaner nationalist government strove to impose their doctrine of racial superiority on the non-Whites population, and with the execution of the policy of forced removals, many in the native population became internally displaced and were compelled to live in the homelands.

In essence, when comparing the IDPs in Israel and South Africa, it is apparent that the history and status of both differ in addition to the systematic way in which separatism was practiced in both contexts; nonetheless, the role of Zionism and Apartheid in separating the indigenous peoples of the land from Whites or Jews appears to be similar and this will be the focus of this study.

Aliens in their Own Lands

In 1948, many of the indigenous Palestinians were displaced and expelled from their homes and property and forced to live in radically unequal and intolerable circumstances as they watched the Whites (Israelis) continue to exploit their land and resources. The settler colonial authorities implemented their policy of restricting landownership for the indigenous through legislation, but this was only one of the numerous means used to accomplish the master plan of ethnic cleansing, therefore transforming the native population into aliens in their own lands.

By the end of the 1948 war, those who remained in what became Israel were turned into a minority in their own homeland. Internal displacement was dependent on the destruction of villages, armed conflicts, as well as (Israeli) legislation. If a Palestinian left his\her village for a brief time during the 1948 catastrophe, he/she was marked as an "absentee" and his/her property was termed "absentee property," indicating that the right to return to home and land had been eliminated. Ever since the foundation of the state of Israel and until 1966, these internally displaced Palestinians lived in Israel under military rule (Schulz and Hammer 2003, 74- 75). Despite the fact that these Palestinians gained Israeli citizenship, they were deprived of their basic and equal rights in comparison with Jewish Israeli citizens, and the internally displaced Israeli-Arab citizens were perceived as a threat to Israeli demographic security and ethnic domination (Masalha 2003, 43). Hence it is clear that the newly formed state of Israel tried to accomplish the Zionist project in displacing the majority (and if possible, all) of the indigenous population. The mere fact that the rightful and legitimate owners of the land were turned into a minority and were discriminated against, albeit while holding Israeli citizenship, underscores the anxiety of the colonizing settlers to pressure the natives into fleeing.

An amalgamation of military-strategic, demographic-land settlement and Zionist ideological approaches governed Israel's land policy concerning the Palestinian citizens of Israel after the Nakba, including the internally displaced Palestinians. The property of the internally displaced Palestinians constituted about 300,000 dunums. After the 1948 war, the Israeli authorities confiscated the majority of these lands, and this left the internally displaced subjugated by regulations and laws that deprived them of most of their lands. The land was annexed by the authority of laws issued by the Israeli parliament, and transferred to Jewish ownership. One of the most well known cases of internal displacement involved the inhabitants of two villages, Kafr Bir'im and Iqrit, who were forcibly displaced by the Israeli army in November 1948 and never allowed to return. The Israeli military destroyed every house in these villages and confiscated the lands (Jiryis 1976, 23- 25). As a result, the villagers of Kafr Bir'im filed a claim in the High Court of Justice in Israel asking for return to their lands, but the Court's verdict was that the villagers would need permits to return to their lands which the military refused to issue(Jiryis 1976, 23- 25). This case epitomizes one of the numerous stories of villages destroyed by Israeli forces, and it also illustrates the Israeli project of separating Jewish citizens from the internally displaced Palestinians and depriving them of their own lands. This strategy forms the cornerstone of the biased policy of the Military Administration which banned the IDPs from regaining their lands.

In the South African case, Black Africans were also subordinated to legislative laws depriving them of their lands and resulting in their dispossession. The government of South Africa unilaterally decided that its Black population consisted of a group of nations, each of which was entitled to a homeland. The homelands were created to confine Black Africans to 13 per cent of their land, not surprisingly to the least fertile areas, located in scattered units on the borders of the industrialized areas. Subsequently the Nationalist party designated ten rural areas as Black homelands which were located in a very limited space, while the government controlled 87% of the land. Despite the fact that 80 percent of the people in South Africa are Blacks, with significant ethnic diversity, neither the size of the population nor their cultural identity was taken into consideration in locating the homelands. For instance, the Pedi and North Ndebele are combined in Lebowa, and the Tsonga and Shangaan are combined in Gazankulu. Therefore the location, size, and fragmentation of the homelands are the result of the expansion of the South African frontier during the nineteenth century and their legislative implementation in the twentieth century particularly in 1948 (Butler and Adams 1999, 1- 7). The basis of Apartheid in South Africa depended on the actual separation between the "Whites" and non-White–s, who were forced to leave their lands and were confined to scattered, remote and restricted areas designated for them so as not to interact with, or in other words "corrupt,", the superior white race.

Furthermore, Blacks were restricted or even deprived of land ownership, and as in Israel, this was enacted by legislation, for instance, the Development Trust and Land Act No. 18 of 1936 expanded the Black-only reserves to a total of 13.6 percent of the land in South Africa and authorized the Department of Bantu Administration and Development to eliminate Black ownership of land. The South African Development Trust was established and could, according to the act, acquire land in each of the provinces for Black settlement. The act was adopted by the Nationalist government and was not abolished until 1991. The adaptation of this law led to forced removals of people living in the "wrong" areas; for example Blacks living in District Six in Cape Town were forced to flee and were situated in the homelands (Glücksmann 2010, 14). This poignantly shows how the new government justified all means used to expropriate as much land as possible regardless of the outcome, and thus left Blacks, the rightful owners of the land, internally displaced. In order to ensure Afrikaner domination and hegemony over the republic of South Africa, the Nationalist government imposed regulations restricting Bantu ownership (by Bantu I mean the Black population in the Homelands) and confiscated their lands. Based on color identification one was either allowed or banned from land ownership, and the indigenous population were expelled from their lands and transformed into aliens in their own lands.

The degeneracy of Apartheid and Zionism in depriving the native population of their lands and displacing them illustrates the dependency of both projects on notions of racial and biological superiority in which Blacks and the non-Jews were subjected to forced removal and were marked as strangers in their own lands. Despite the fact that Apartheid has been internationally denounced and proclaimed a violation of human rights law, paradoxically Israel and South Africa both purposefully inflicted their nefarious policies of segregation as a means of ensuring their control over the land.

The Legal Framework of Segregation

Whether in Israel or in South Africa, the dominant legal framework and political regime was based on race and ethnic distinction, in which Blacks and Palestinians were not given the same rights as the Whites and Jewish Israelis. Therefore racism was reflected in all aspects of life, and as a result those oppressed were deprived from their human rights and were treated as inferior human beings. The attempt to legitimize Apartheid reflects the Occidental attitude in which one's color or ethnicity gives one the right to rule, dominate, and even annihilate those of allegedly lower capabilities. Segregation was, practically, the cornerstone of the legal system in which the dogma of separation between two ethnicities or races was legitimized by law and the constitution, and this manifests the contradictory nature of the legal system which is supposedly based upon equality and justice, rather than segregation and discrimination.

In Israel, according to Noam Chomsky, "The Jewish dream is to construct a state which is Jewish as England is English and France is French. At the same time, this state is to be a democracy to the Western model. Evidently, these goals are incompatible" (cited in Jiryis 1976, xi). The Israeli attempt to minimize the non-Jewish population (including the IDPs) and ensure the Judaization of Israel is the primary pillar of the Military Administration--in order to fully grasp the nature of military rule in Israel it is crucial to refer to its foundation. The Israeli Emergency (Security Zone) Regulation 5709 promulgated in 1949 had its legal foundation in the British Mandatory Defense Emergency regulation established in the country in 1945. The history of these laws goes back to the Arab Revolt in Palestine from 1936 to 1939. During the revolt, Palestinians were brought to trial in Israeli military courts in which the High Commissioner gave verdicts which ranged from detention, expulsion, and banishment from land to seizure and control of property. Ironically, Jewish settlers opposed the military court and one Jewish lawyer commented that such laws threatened every Jewish settler, and gave the military and administrative authorities absolute power (Jiryis 1976, 11). After the formation of the Israeli state in 1948 one would have expected the abolition of the military administration, yet what appeared was an even more oppressive military administration.

Palestinian citizens inside Israel, including the internally displaced, were subjected to an oppressive Military Administration which was established from 1948 and lasted until 1966. The imposition of martial law and military administration between this period had a massive impact on internally displaced Palestinians in Israel. Paradoxically, in 1948, the Israeli Provisional State council, seeking international recognition for the newly formed state, integrated into the "Independence Charter" a promise that, "The Jewish state would uphold the full social and political equality of all its citizens, without distinction of religion, race, and sex" (see Masalha 2005, 26). However, it was the exact opposite that was practiced in reality. Israel's dishonesty and hypocrisy in probating internationally through its charter that it was completely egalitarian and that Palestinian citizens in Israel had rights equal to those given to Jewish citizens appeared to overshadow the deteriorating status of internal refugees in Israel.

Regardless of the official structure of the law in Israel, which appeared highly committed to "equality," and the seemingly absence of a dual system or legally based Apartheid

as implemented in the South African case, Israel's legal system in fact fosters selective political dominance over the Palestinian population in Israel, including the IDPs (Koan 1999, 215). After the founding of the state, Israel treated the Palestinians within as foreigners. It swiftly imposed a military administration in areas populated by Palestinians, confiscated over half of the lands of the "non-Jewish" population, and used numerous methods of demographic containment, political rule, repression, and systematic discrimination in all aspects of life (Masalha 2005, 27). Despite the fact that Israel was careful in the formation of its legal system and "officially" announced a commitment to equality, in actuality its treatment of the internally displaced Palestinians has proved that Israel violates its own charter.

The regulations of the Military Administration epitomizes the traditional imperialist attitude in dealing with the indigenous population in a colony. The colonial authorities were given excessive and rigorous powers; hence their encroachment led to nearly the complete loss of the Palestinians' freedoms and property rights in Israel. These discriminatory policies were imposed on every aspect of life, from control over movement, freedom of speech, of means of transportation, and of the media to the expropriation of land (Abu-Sa'ad 2005, 117). Also the military government established the employment service law banning all unorganized workers-- the majority of Palestinians were not registered in any working union. More specifically, the Histadrut, the general federation of Jewish labor founded in 1920, persistently refused to register Arab workers in this labor union, and as a result many Palestinians were working illegally with low payment (Jiryis 1976, 219 -222). The purpose behind this labor discrimination was to separate Israeli Jewish citizens from Palestinians, and to keep the Arabs "reserved" in villages and away from Jewish areas. Thus all privileges were given to the former and withheld from the latter. During the Military Administration, an enormous amount of pressure was placed on the internally displaced Palestinians in Israel was in order to compel them to leave the country.

Nonetheless, unlike in Israel, in South Africa separatism was vigorously and overtly implemented via the legal system after the triumph of the National Party in 1948, which lasted until 1994. This new regime moved rapidly to enact a severe policy of segregation, in which Apartheid was written into regulations. The numerous racially discriminatory policies which the government imposed on Blacks, particularly towards IDPs, all unquestionably created types of racial segregation. For instance, in 1949 **Apartheid** was one of the most crucial policies of the Malan regime, which aimed at implementing the separateness of population groups, such as separate development and multinational development policies. Meanwhile in 1959, The Promotion of Bantu Self-Government Act No. 46 allowed the transformation of reserves into "fully-fledged independent Bantustans" and also resulted in the abolition of parliamentary representation for Blacks. Blacks were classified into eight ethnic groups and each group had a Commissioner-General who was entrusted with the development of a homeland for the group, which would be allowed to govern itself independently without White interference. Therefore the establishment of Transkei Constitution Act No. 48 of 1963 created the first of South Africa's semi-independent Bantustans such as Bophuthatswana, Ciskei, and Lebowa (Glücksmann 2010, 20). The aim of this amendment was to fully prevent Blacks from

entering the parliament of South Africa and the legislature, for it was thought that by declaring the independence of some of the homelands such as Bophuthatswana, the Blacks would be content with semi- self governance.

The South African ruling authorities were given extra powers to evict Africans from their lands (Sachs 1973, 165). In order to expand this policy, the National Party regime established regulations prohibiting Blacks and Coloreds from certain areas through laws such as the Group Areas Act No. 41 of 1950 which called for the forced physical separation between racial groups by creating different residential areas based on racial categories (Glücksmann 2010, 14). What distinguishes South Africa's Apartheid structure from that in other countries is the systematic way in which the National Party formalized it through the legislative system; for instance, the Prohibition of Mixed Marriages Act No. 55 of 1949 banned marriages between white people and people of other races. The Native Labor Settlement of Disputes Act No. 48 of 1953 introduced an official system of racially segregated trade unions and made strikes by Africans illegal in all circumstances, in addition to Land Acts of 1954 and 1955 which restricted non-White residence to particular areas. These laws diminished the already limited rights of Black Africans to own land, and ensured the White minority's control over South African. Also the South African Citizenship Act No. 44 of 1949 renounced common citizenship agreements existing among members of the Commonwealth and poised the mechanical granting of citizenship to immigrants from Commonwealth member nations. Citizenship by registration resulted in the utmost controversy as it affected recent immigrants. The interior minister reserved the right to grant or deny citizenship without resorting to the courts (Glücksmann 2010, 13 -14). From all these regulations which obviously aimed at enforcing racial distinction in all aspects of life and implementing Apartheid through the country's jurisdiction of the country, the South African government attempted to legitimize its discriminatory policy towards Blacks. The obstinacy of this regime is evident in its relentlessly inflection of Apartheid through the law.

The Enactment of Separatism

In racially or culturally plural societies, particularly those dominated by minorities, the perpetuation of one group's dominance, and thus of privilege, is inextricably associated with the designation of group distinction (Butler and Adams 1999, 24). The South African Apartheid regime and the Israeli military regime enforced various methods in separating the internal displaced population from Whites and Jews, respectively. Although the systematization of these methods differed, the ultimate goal was to minimize if not prohibit any interaction whatsoever between the dominant powers and the so called "others." Hence Apartheid was embedded in all aspects of life whether educationally, socially, politically, or economically and the IDPs were restricted from obtaining opportunities which were allocated to those of "suitable" pigmentation. However, it is important to highlight that in South Africa there was more than one type of Apartheid, and the system was deeply hierarchical.

As developed in South Africa, the Apartheid system used countless tactics of perpetuating racial segregation. The Apartheid regime was constituted based on the following:

labor regulation, communal Apartheid, separate development, and political control and privileges. After 1948 the new government purposefully introduced Apartheid's stationary groups and enforced residential segregation. Following the swift economic integration of South Africa, the National Party government was immediately confronted with the predicament of devising a system which would guarantee sufficient African labor without seriously undermining formidable Afrikaner and White supremacy. The Afrikaners wanted the land of South Africa for themselves, yet they needed the labor of the indigenous population. Black workers were forced to live in "townships" or labor camps and earn only a small portion of the wages paid to White workers. As a result, the Nationalist government controlled the movement of Black people by making them carry passes which determined where they could live, travel and work. If they were found in the "wrong place," they would be detained (From South Africa to Israel, 4). Furthermore, in the 1950s and 1960s, White trade unions reinforced the color bar by defining which jobs should be prohibited for Blacks; thus African labor remained fragmented, unorganized, and poorly paid (Giliomee and Schlemmer 1989, 64 -74). By restricting Blacks form working in cities and from certain jobs, the government sought to diminish African residence in the White areas with particular attention given to the cities. The National Party government contemplated the idea, and even implemented, of relocating Blacks in the homelands, and through the policy of forming a boundary line based on color, the racist government sought to compel them to leave. The inequality of wages and the exploitation of the Black labor force reflected the white population's imperial perception of the Blacks, wherein they were treated as inferior beings whose only reason of existence is to serve, be subject to, and yield to Whites.

The matter of African labor control was such a central focus of the Apartheid regime that many analysts considered the regulation and reproduction of cheap Black labor to be its cornerstone. The impudence of Apartheid was stringently enacted by legislation; consequently under the National party, two amendments were established to preserve labor separation. For instance, the 1952 Act together with the 1957 amendment institutionalized a strict division of labor between the low-paying prime [labor sector and other sectors of the economy (Giliomee and Schlemmer 1989, 64 - 66). So in South Africa job opportunities were allocated based on color rather than proficiency, thus exacerbating the already unbearable circumstances under which the internally displaced persons were forced to try to survive. It is evident from the amendments above that some well-paying Prestigious jobs were considered appropriate for the Whites and simultaneously were denied to the Blacks and Coloreds. This illuminates the distinctiveness of the Apartheid regime in South Africa in which racism was implicitly normalized and overtly established through the law in various spheres of life.

The Nationalist government not only passed racist laws restricting Blacks, in particular the IDPs from the homelands, in the labor market but also in all aspects of life. For instance, segregation notices appeared on buses, trains, taxis, ambulances, parks, benches, sports, beaches, libraries, universities, museums, and even zoos. In addition, interracial marriage was prohibited and anyone who violated this law was imprisoned. The sick were treated in separate hospitals and the dead were interred in separate burial grounds (Sachs 1973, 166). Apartheid was so embedded in South Africa that it was also

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inflicted upon the dead, apparently no one was spared from its malevolence.

Moreover, the country was systematically divided into spatial zones for occupation by different racial groups; vast numbers of people were forced to depart their homes to make way for persons of appropriate pigmentation. In order to separate the population and allocate each person to his\her legally defined racial category a fundamental system of racial identification was instituted. (Sachs 1973, 11).

In the Bantustans, agriculture was to be modernized by a drastic reduction of the peasantry and industrialization was to be enforced so as to displace the new proletariat off the land. Hence according to the "ideals" of Apartheid, not only would the Bantustans support their current population, they would also support Black labor repatriated to them. Conversely, the aim behind this policy was not to develop the agriculture of the homelands, but rather to restrict the mobility of Black workers in the cities so that they would not compete with Whites (Moerdijk 1981, 77). Most of the homelands were in regions with deficient soils and low and unreliable rainfall, particularly Bophuthatswana and Kwazulu (Butler and Adams 1999, 15). The Nationalist government was only concerned with decreasing the amount of Black workers in white areas, and in the homelands, the agricultural produce was to remain deficient and uncompetitive compared to that produced from White areas.

Also in the educational system, Apartheid was deeply rooted and was implemented as a means of perpetuating segregation amidst children of different races and ethnicities. Schooling in South Africa is divided into four component systems, each serving members of a separate "racial" category: African, Colored, Indian, and White. Within these "racial" categories, the various "ethnic" groups were also segregated. For instance, the Africans, Zulu, Tswana, and Xhosa attended separate schools and the Interdepartmental Committee on Native Education reported that there was a huge disparity between the primary school standards of white and Black pupils. Schools for Black children were described as having overcrowded classrooms, and lacking staff and facilities. The committee also remarked that, "The education of the White child prepares him for life in a dominant society and the education of the Black child for a subordinate society"(cited in Johnson 1983, 216 -217). So the pedagogical system in the homelands and in South Africa in general also inflicted Apartheid, in which White children were being taught to despise and marginalize the Blacks, Indians and colored; on the other hand, the Black children were prepared to be subjugated to the dominant White society. This emphasizes that no one was spared from segregation, and even the children of the IDPs were forced to yield and adapt to this way of life. The tactic of Apartheid was deployed against the IDPs to such an extent that one wonders if there was even one aspect of non-White life which was not be touched by this prejudicial system of rule.

In Israel, the internal displaced Palestinians under the Military Administration were highly segregated. Despite being citizens of Israel, they are not integrated into Israeli society and are discriminated against socially, educationally, politically , and economically. As Marwan Dawiry claims, "From its inception in 1948, the state of Israel has treated them [Palestinian Arab citizens of Israel] as foster citizens . . . their cultural and economic dispossession is translated into a general attitude of disrespect toward and

rejection of the Palestinian-Arab citizens of Israel's national identity and their cultural heritage on the part of the Jewish majority population" (cited in Abu-Saad 2006, 2). The refusal to integrate the IDPs in Israel into the social, economic and educational arena can be interpreted as racism in all regards. Not only were the IDPs dispossessed from and relocated in their own lands, but they were also severely subjugated and overtly marginalized.

Due to discrimination, land confiscation, exclusion, lower education, higher unemployment, and lower income there has been a systematic marginalization of Palestinians in Israel (Schulz and Hammer 2003, 74 -75). As the Nationalist Government in South Africa, the military government invigorated separatist approaches amongst the indigenous population and implemented various means of discrimination. Starting with the economic position of the IDPs in Israel, their economic status was deteriorating and this was highly due to the expropriation of Arab land and low wages given to the Arab working force. The majority of the Arab population in Israel highly depended on agriculture as their main source of income, yet the expropriation of vast areas of Arab land was the most crucial obstacle towards the development of Arab agriculture and this caused a large proportion of the IDPs to turn to wage labor. In addition to land expropriation, the Israeli government was at best indifferent to Arab agriculture at worst froze its development. For instance, in the early years of the state, when Jewish agriculture had not yet taken over, and the settlers had not yet fully exploited the land left behind by Palestinians internal and external refugees, corporate monopolies were not hesitate to take the necessary steps to delay and even block Arab agriculture until Jewish agricultural success was fully attained. Not only did the Israeli government restrict Arab agriculture, but it also differentiated between the price of produce of Arab and Jewish Israeli farmers . Although this discrepancy was "officially" abolished in 1952, the difference seems to have increased from year to year(Jiryis 1976, 214 -215). The harsh and predatory treatment of Palestinian farmers under the Military Administration cannot be justified in any way, nor the marginalization of Palestinian farmers in Israel at the expense of developing Jewish Israeli agriculture. Through the "present absentee" regulation, the Military Administration (and the state) aimed at depriving the Palestinian population from retrieving their lands; taking into consideration the fact that Palestinian society highly relied on agriculture as its primary source of income, the Israeli government exploited the Palestinians' Achilles heel.

In the labor sector, the Israeli authorities during the Military Administration and even until today discriminate greatly between the Arab workers and the Israelis. For instance, most jobs in offices and others were closed to the Arabs and consequently the IDPs in Israel were compelled to work in unskilled, manual jobs which were exhausting; the discrepancy in wages between the Jewish and Arab populations in Israel is stark. Also it is crucial to emphasize that the Israeli concern which most prominently shaped its attitude towards the internal displaced Palestinians in Israel was that of "security." The military government perceived the Arab population as a threat to its security, thus the government and the system of travel permits made life extremely difficult for the internally displaced. Permits were persistently withheld from Palestinians seeking to travel to Jewish areas in search of employment. Eventually Palestinian citizens demonstrated against this policy and

consequently were fired at by the Israeli police. Furthermore, representatives of Jewish labor protested against accepting Palestinian workers within the agenda of organized labor. Even though the Israeli government paid the Palestinian workers a small proportion in comparison with wages given to Jewish citizens, the government also continued to withhold travel permits from Palestinians as a means of pressuring them and in order to diminish the competition between the Jewish and non- Jewish population.

Furthermore, the internally displaced Palestinians were prohibited from working in Jewish areas, at a time when job opportunities in Arab areas were increasingly scarce, and this led the Israeli government to set up employment offices in Arab communities; for instance, five of the employment offices were in mixed cities such as Acre, Haifa, and Jaffa. However these changes were not sufficient and the Palestinian workers were forced to breach military regulations and looked for work surreptitiously; this made them vulnerable to wage exploitation by Jewish employers. If they were caught breaking the law, Palestinian workers would be trailedin military courts and dismissed from their work for breaching employment regulation concerning "unorganized workers" (Jiryis 1976, 220 -221). Under the guise of preserving the "security" of the state, the Israeli government was determined not to integrate the Palestinians into Israeli econom. According to Israel's assessment, some jobs were suitable to Jews and not for the Palestinians, including the IDPs. Whether through the creation of unequal wages, or the allocation of low-wage jobs to Palestinians and their exclusion from certain job opportunities, the Israeli government deepened segregation among its Arab and Jewish citizens.

The educational system was also based on racial segregation, despite the fact that in 1949, the Knesset passed a law regulating elementary education for both Arabs and Jews; nonetheless, the disparity between Arab and Jewish schools was prevalent. According to the 1949 law, the state is responsible for providing eight years of free, compulsory education to children between the ages of five and thirteen, but this law has not been fully executed. The shortage of trained teachers, ineffective teaching programs, the vagueness of school curricula, and the shortage of Arabic textbook tend to plague schools for the Arab population. The most crucial shortage in the Arab educational sector was the lack of trained teachers, and after the foundation of the state of Israel, the authorities purposefully appointed dozens of untrained teachers. As a result during 1949 -1950, 90 percent of the Arab teachers teaching in Arab schools were untrained and the Israeli authorities had no desire whatsoever to amend this shortage. Furthermore in 1956, the number of Arab teachers who graduated from college surpassed the number of untrained teachers working in Arab elementary schools. Yet the selection of teachers in Israeli schools did not always depend upon the merit of the candidates, but rather on the recommendation of the military government (Jiryis 1976, 204 -206). During the Military Administration, the government purposefully imposed inadequate educational circumstances for the internally displaced Palestinians and was inclined to preserving the inefficiency of the educational system while improving Jewish schools. The motive behind this highly segregated policy was to deprive Palestinians from receiving a decent level of education, perpetuating the deteriorating status of Arab schools and compelling students to dropout, thus contributing to the economic struggles of Palestinians in Israel and their unequal status in all domains of life.

Conclusion

Throughout this study and while comparing the status of IDPs in South Africa and in Israel, particularly in the period 1948 -1966, it is clear how both the Israeli and the South African regimes intentionally discriminated against the IDPs. Although the genesis of the term Apartheid is South African and was used during the Afrikaner regime so as to mark the epoch of racism, nonetheless the term was also used in this study to capture discriminatory Israeli policies towards the internally displaced Palestinians in Israel. In South Africa, Apartheid was dependent on skin color, and in Israel it was, or still is, based on racial identity. The social and geopolitical segregation of the IDPs in South Africa was blatantly enacted and was easy to point out, while in contrast in Israel, it was quite difficult to highlight. Because it was often not enacted through explicit laws but indirectly through proxy measures of marginalization and racist discrimination such as regulations enforced through martial law, labor regulations, etc. The Israeli attempt to keep its discriminatory policies against the Palestinian IDPs hidden from the world, unlike the case of marginalized Africans in South Africa whose shouts for justice were internationally heard and whose circumstances were more clearly recognized is one of the striking differences in the enactment of Apartheid in both countries.

However, the demolition of Apartheid in South Africa in 1994 is a symbol of hope to Palestinians, particularly the internal and external refugees in historic Palestine, and sent a message that settler colonialism, racial domination and Apartheid can be overthrown. The de facto status of the internally displaced Palestinians in Israel calls for revolt , or as Edward Said asserts, "One must join the primordial or constituted group; or, as a subaltern other, one must accept inferior status, or one must fight to the death" (Said 1994, 311). Yet the real and challenging question is: how? How can Palestinians benefit from the South African experience in order to end and overthrow the Israeli colonization of Palestine? How can we resolve the internal and external refugee problem which has not found a solution after sixty- three years of displacement and dispossession?

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Demographic Trends and Challenges in Case of Statehood in Palestine, 2012-2048[1]

Youssef Courbage

Introduction

There are two ways to analyze demographic trends and challenges in Palestine. The first is to examine Palestine as one would a "normal" country, and study its size, growth, and population structure. This is done to project in the future the impact of population growth on education, employment, aging etc. This is the classical way to proceed. But, considering the fact that Palestine is an occupied country and that its territory is divided, we have to take into account not only the demography of the occupied population but also that of the occupier. Hence, Palestinian and Israeli demography are deeply embedded. In the territory of « historical » Palestine, demography could not be detached from the Israeli project and Palestinian responses to that project.

Enlarging the Jewish population-and concurrent efforts to diminish the Palestinian population are major strategic objectives of the Zionist project. This was true before the Naqba in 1948 and has been the case since. This project had always been demographically sensitive, being populationist, thus looking for the larger Jewish population on the land and pronatalist, seeking the highest birthrate. Initially, the project could only be based on immigration, due to the very slight number of native Palestinian Jews. But later on, when immigration brought sizable number of Jews to the shores of Palestine, the role of fertility in population growth became more effective. It is a well-known that ultra-orthodox and religious Jews have large numbers of children. Less known but maybe more significant is that although less intensive, a pro-natalist behavior comes across all segments of the society. By a mirror-effect, the Palestinians have also been engaged in a "war of cradles" or a "battle of numbers", a behavior which showed on even before the creation of the state of Israel. Yet, by definition, benefiting from the sole asset of fertility (no possible immigration).

As far as Statehood is concerned, it is obvious that the establishment of a single state in Palestine, or of two states depends a great deal on the population dynamics of the two populations.

"Populationism" and "Pro-Natalism"

For the Palestinians fertility for a long while had been an anomaly in the theory of demographic transition. Even before the creation of the Jewish State, fertility rates were abnormally high and definitely higher than those of the Arab countries. A reaction of self-defense, through increasing the number of births to confront Jewish immigration is therefore very plausible.

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[1] This paper was submitted in a workshop organized by the Ibrahim Abu-Lughod Institute of International Studies entitled "The internal and external movement of populations and its impact on the Palestinian Authority/Future State" on January 10, 2012.

An Atypical Jewish Fertility...

However, things have changed. Palestinian fertility is no more an anomaly to the paradigm of fertility transition. Now, it is the turn of the Jews in Israel to become the anomaly to this theory. Jews in Israel gather in their hands all the components of a low fertility: high GNP per capita (around 40 000 USD), no illiteracy, high intake ratio in secondary and university education, high urbanization. Yet, despite all of these so-called "inhibiting" factors to reproduction, Jewish fertility has not only stabilized at a high plateau but is even increasing, a most uncommon situation for relatively wealthy countries.

With an increase from a high 2.6 in 1990 to 3.0 in 2010, Jewish fertility is likely to surpass Palestinian fertility in a matter of years: Hence the fertility rate of Palestinians in Israel is now at 3.3 children per woman and in the West Bank it is 3.8. Interestingly, Diaspora Jews have only 1.5 child on average, half the rate of Jewish families in Israel.

...Confronted to the Palestinian Fertility Decline

Palestinian fertility, on the contrary, after ups and downs during the first intifada, is following an opposite pattern. During the seventies and particularly during the eighties and the beginning of the nineties, fertility was politically motivated and considered as an efficient weapon against Israeli occupation and colonization.

However, Palestinian fertility rates have begun to shift since the Second Intifada. This has occurred under a new set of conditions, both economic and ideological. What has been the magnitude of this fall? Figures are sometimes contradictory, depending whether their source comes from the MOH estimates or from the PCBS: 3.4 according to the MOH, 4.5 according to the PCBS survey of 2006, 4.05 in the West Bank and 5.3 in Gaza. Although very significant this fertility decline didn't stall: another survey in 2010 has shown that Palestinian fertility is no more than 4.2: 3.8 in the West Bank, 4.9 in Gaza.

## One or Two states, Depending on Demography?

What is the meaning of these statistics? Demography is not neutral, it can represent a political threat. The highest threat to Palestinian statehood in the next future, is the competing demographic challenge of the Jewish population, particularly in the conflict zones: the West Bank and East Jerusalem.

One example illustrates this point to which we will return later on. Chart 1 shows the phenomenal growth of the numbers of Israeli settlers housed in the Palestinian territories occupied in 1967: from 41, 000 in 1977 to 560,000 in 2011, a 14 fold increase in the West Bank (including East Jerusalem), the annual rate of growth of the Jewish settlers is 4% per annum, for the Palestinian it is only 2.6%.

The Amazing Increase of the Settler Population: Low Mortality…

If Jewish settlers in the West Bank enjoy a higher growth than the Palestinians, this is due to a set of four factors: a lower crude mortality rate than the Palestinians due to a higher life-expectancy (among the top in the world); fewer aged persons above 65 years, since settlements attract mainly young couples with or without children. Besides low mortality rate, settlements benefit from a high immigration rate from inside the Green Line, considered as "internal" migration by the Israelis, but "international" migration by the Palestinians and the world community. This Jewish immigration enables an enhancement of the standard of living for those immigrants.

Chart 1: Jewish Settlers in the West Bank (Including East-Jerusalem), 1977-2011
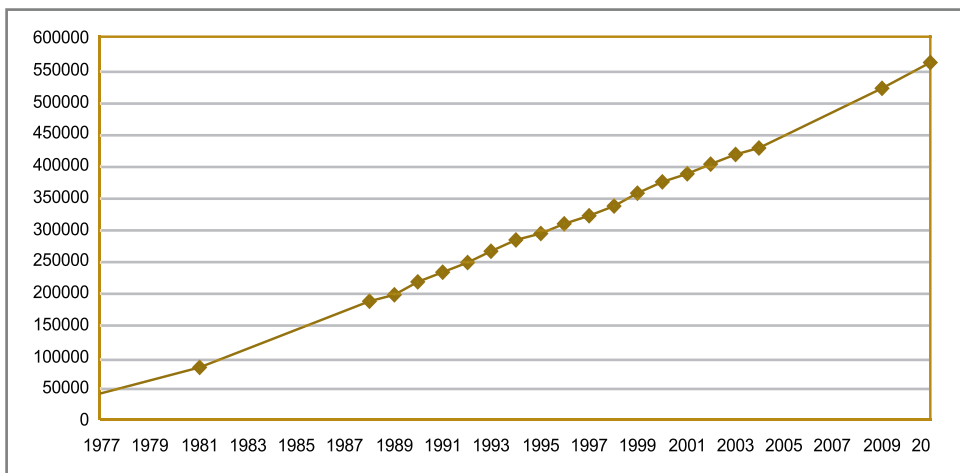
Although immigration tends to dampen with time, it is still very vivid for the Jewish settlers. Recently, every year there were some 5 000 newcomers thanks to immigration alone, either from the other side of the Green Line or directly from abroad. Contrary to this, the Palestinians have been significantly emigrating abroad especially from the West Bank since 2000 as shown by the International Migration Survey taken in 2010 by PCBS. But immigration does not tell the whole story. The crux of the problem is the phenomenal fertility rate of the settlers compared to the Palestinians.

A "Sub Saharan" Fertility

The last Israel Central Bureau of Statistics yearbook of 2011 shows comparisons of fertility between Jews settlers and Palestinian "natives" in the West Bank.

Settler's fertility has been rising over the 4 decades following the 1967 occupation. In 2010, it had reached (without Jerusalem, where fertility is even higher), 5.18 children per woman, thus increasing from an already high level of 5.06, in 2009, a 2.3% rise. Settler's fertility rate dominates the Palestinian's rate: 5.18 versus 3.8, thus more than one child per woman or 37% more.

Population "Momentum", and the Low Age at Marriage

Another subtle reason for the high rate of growth of the settler's population, is the population momentum, i.e. the fact that they have a high number of youngsters and the ability for high number of youngsters to marry early and to reach reproductive ages very quickly. (Chart 2), a very young age-sex structure comparable to what is to be fund now in Sub Saharan Africa. Where age at first marriage, both females and males is also particularly low.

Chart 2 : Age-Sex Structure of the Jewish Population in the West Bank, 2010
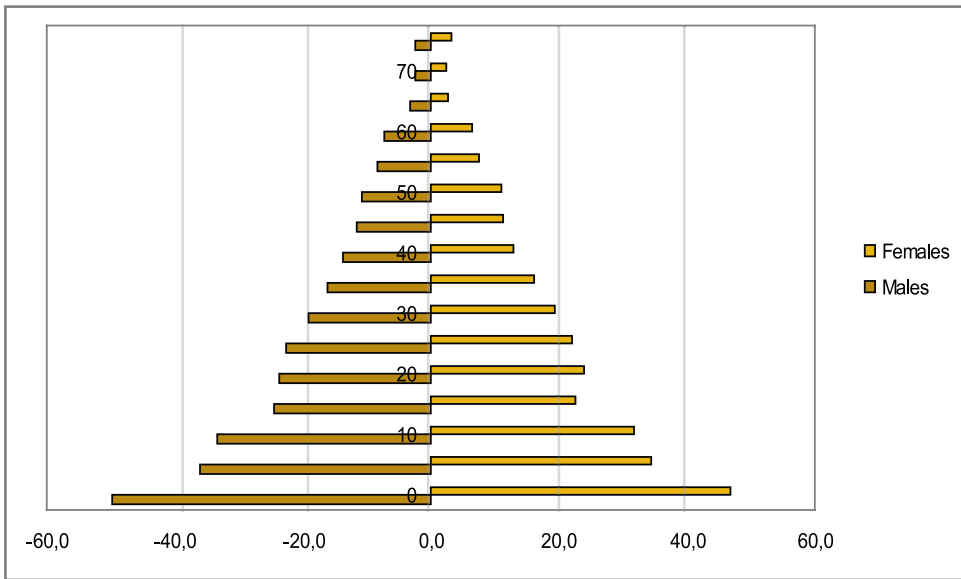

Jerusalem, an Even More Complex Issue

Singling out Jerusalem for close study is easy since , the Israeli CBS is very sensitive to the demographic fate of the Holy City. It publishes detailed data that suggests that the "war of cradles" here is even more intense.

The Palestinian population in East-Jerusalem had kept a high fertility for a relatively long period. Yet, this situation did not last forever. Now, Palestinians have still 3.84 children on average in 2010, but this is lower than previous years and less by 11%, the Jewish inhabitants of the Holy City: 4.26 (4.16, the previous year). Fertility disequilibrium is even more pronounced, considering East-Jerusalem alone, fertility of the quarter of a million settlers (the precise figure is open to discussion), 5.40 hence exceeds the Palestinian one 3.84, by 40%.

Chart 3: Jewish and Palestinians of 1948 Fertility
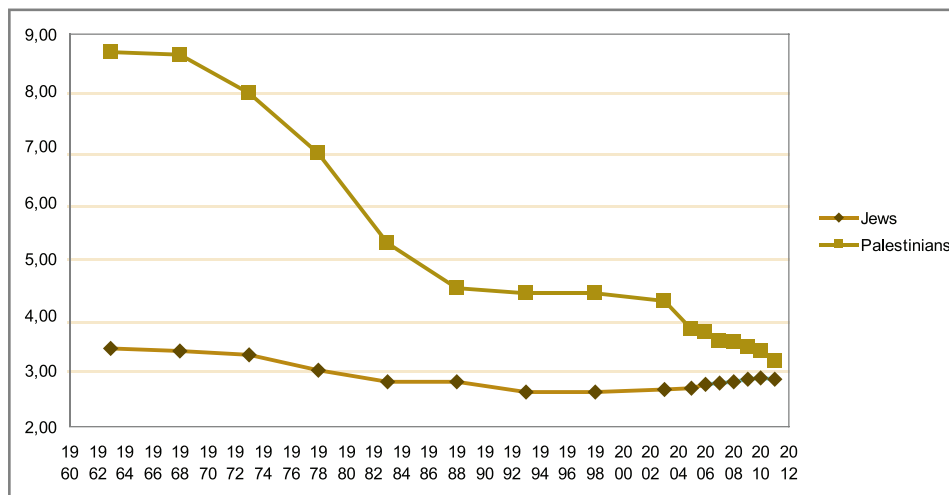
## The Comparative Situation of the Palestinians of 1948

In the sixties of last century, with almost 9 children per woman (a worldwide record level), the Palestinians of 1948, those who are entitled to the Israel citizenship, contrary to those of annexed Jerusalem much exceeded the Jews, whose fertility was high but much lower: 3.4. With around 17% of the population of Israel now (in the 4 June 1967 borders), this proportion did not change much, meaning that that Palestinian fertility inside Israel was somehow contained, thanks to huge immigration streams.

But now on, there is convergence of fertilities inside Israel which diminish the impact of a decreasing Jewish immigration. The increasing Jewish fertility, year after year -after a low of 2.6 it is now in the vicinities of 3 (2.97 for Jews by religion, 2.88 for "Jews and others (i.e. non Arab Christians, no religion, contrasts with the Palestinians of 1948 fertility, which was cut threefold reaching a low of 3.3 now, hence few decimal point above Jewish fertility.

A Reversal in Fertility Situation

Demographic trends, fuelled by fertility trends, the most effective component of population dynamics, shows (chart 4), proves the reversal of reproduction behavior, with the inversion in the West Bank and especially in East Jerusalem. It shows also that in Israel, the convergence between Jewish and Palestinian of 1948 fertility is a matter of few years.

Chart 4: Recent Fertility Differences Among Palestinians and Jews, 2010
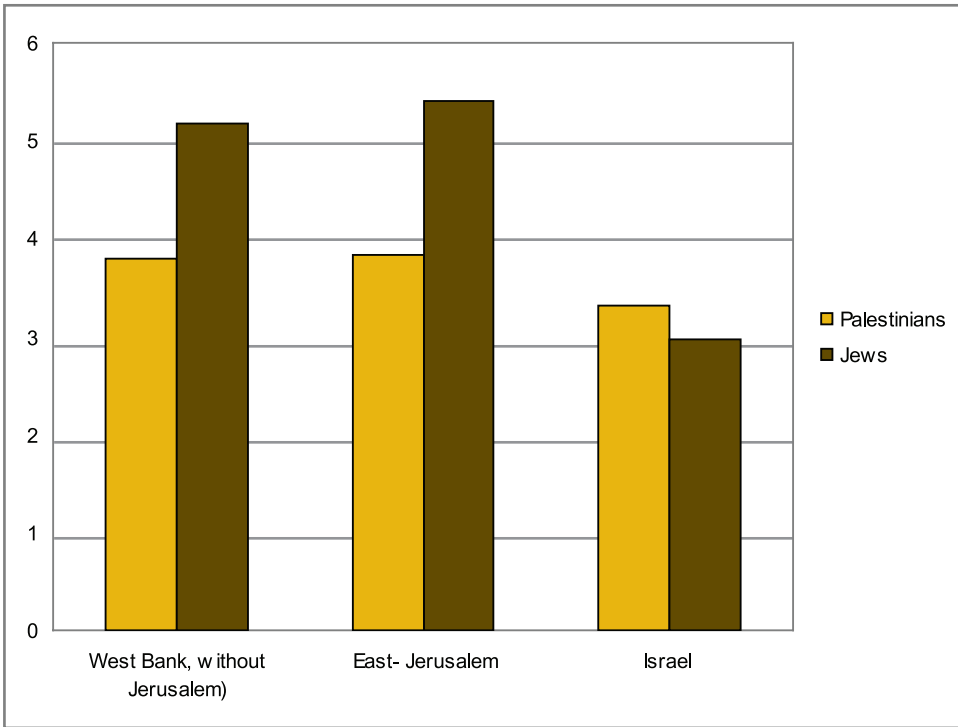
The remnants of high Palestinian fertility are to be found only in the Gaza strip only: 4.9 children per woman (but half what it used to be during first intifada).

Population Perspectives and Statehood

We present now different sets of population perspectives from now on until 2048, pointing out the issues they raise in terms of statehood for the Palestinians. (Table 1).

Chart 5 presents the likely evolution of the total Palestinian population (West Bank, East Jerusalem, Gaza, Palestinians of 1948) compared to the Jewish population in historical Palestine. As of 2020, the number of Palestinians will be equal to the number of Jews: 6.9 millions.

Table 1: Population Perspectives in Historical Palestine, 2011-2048

	Population size (thousands)	Of which	Of which	Of which	Of which	Of which		Of which	West Bank (without Jerusalem)	East - Jerusalem)	Gaza strip
	TOTAL	ISRAEL	JEWS	Jews (inside green Line)	Jews (settlements)	PALESTINIANS 48	OCC PALESTINE	West Bank			
2011	11658	7431	6155	5595	560	1276	4227	2569	2285	284	1658
2015	12542	7875	6475	5817	658	1400	4667	2785	2477	308	1882
2020	13644	8400	6872	6086	786	1528	5244	3058	2720	338	2186
2025	14782	8944	7268	6347	921	1676	5838	3328	2960	368	2510
2030	15939	9502	7666	6601	1065	1836	6437	3588	3192	396	2849
2035	17086	10066	8071	6846	1225	1995	7020	3827	3404	423	3193
2040	18214	10642	8497	7092	1405	2145	7572	4041	3594	447	3531
2045	19303	11229	8939	7338	1601	2290	8074	4225	3758	467	3849
2048	19936	11591	9212	7486	1726	2379	8345	4320	3843	477	4025

Proportions (%)

	TOTAL	Of which	Of which	Of which	Of which	Of which	Of which	Of which	West Bank	East - Jerusa-	Gaza strip
		ISRAEL	JEWS	Jews (inside green Line)	Jews (settlements)	PALESTIN-IANS 48	OCC PAL-ESTINE	West Bank	(without Jerusalem)	lem)	
2011	100,0	63,7	82,8	90,9	9,1	17,2	36,3	60,8	89,0	11,0	39,2
2015	100,0	62,8	82,2	89,8	10,2	17,8	37,2	59,7	89,0	11,0	40,3
2020	100,0	61,6	81,8	88,6	11,4	18,2	38,4	58,3	89,0	11,0	41,7
2025	100,0	60,5	81,3	87,3	12,7	18,7	39,5	57,0	89,0	11,0	43,0
2030	100,0	59,6	80,7	86,1	13,9	19,3	40,4	55,7	89,0	11,0	44,3
2035	100,0	58,9	80,2	84,8	15,2	19,8	41,1	54,5	89,0	11,0	45,5
2040	100,0	58,4	79,8	83,5	16,5	20,2	41,6	53,4	89,0	11,0	46,6
2045	100,0	58,2	79,6	82,1	17,9	20,4	41,8	52,3	89,0	11,0	47,7
2048	100,0	58,1	79,5	81,3	18,7	20,5	41,9	51,8	89,0	11,0	48,2

Annual rate of increase (p. 1000)

		Of which	Of which	Of which	Of which	Of which		Of which			
	TOTAL	ISRAEL	JEWS	Jews (inside green Line)	Jews (settlements)	PALESTINIANS 48	OCC PAL-ESTINE	West Bank	West Bank (without Jerusalem)	East - Jeru-salem	Gaza strip
2011											
2015	18,3	14,5	12,7	9,7	40,3	23,2	24,8	20,2	20,2	20,1	31,7
2020	16,8	12,9	11,9	9,0	35,6	17,5	23,3	18,7	18,7	18,7	29,9
2025	16,0	12,6	11,2	8,4	31,7	18,5	21,5	16,9	16,9	16,9	27,6
2030	15,1	12,1	10,7	7,8	29,1	18,2	19,5	15,0	15,0	15,0	25,3
2035	13,9	11,5	10,3	7,3	28,0	16,6	17,3	12,9	12,9	12,9	22,8
2040	12,8	11,1	10,3	7,1	27,4	14,5	15,1	10,9	10,9	10,9	20,1
2045	11,6	10,7	10,1	6,8	26,1	13,1	12,8	8,9	8,9	8,9	17,2
2048	10,8	10,6	10,0	6,7	25,1	12,7	11,0	7,4	7,4	7,4	14,9

But, afterwards the Palestinians will increase more, namely thanks to population momentum. This is especially true given the higher fertility rate of the Gaza Strip, (4.9). This is higher than Palestinian fertility of the West Bank and of East-Jerusalem.

On the basis of this chart, we may infer very simply that a one state on the whole of historical Palestine is inconceivable, for the Palestinians, naturally but also for the Israelis, whose occupation will create an inextricable demographic issue 9.2 million Jews (46%) dominating a majority of 11.8 million Palestinians.

Chart 5: The perspectives of the Palestinian and Jewish Populations in Historical Palestine
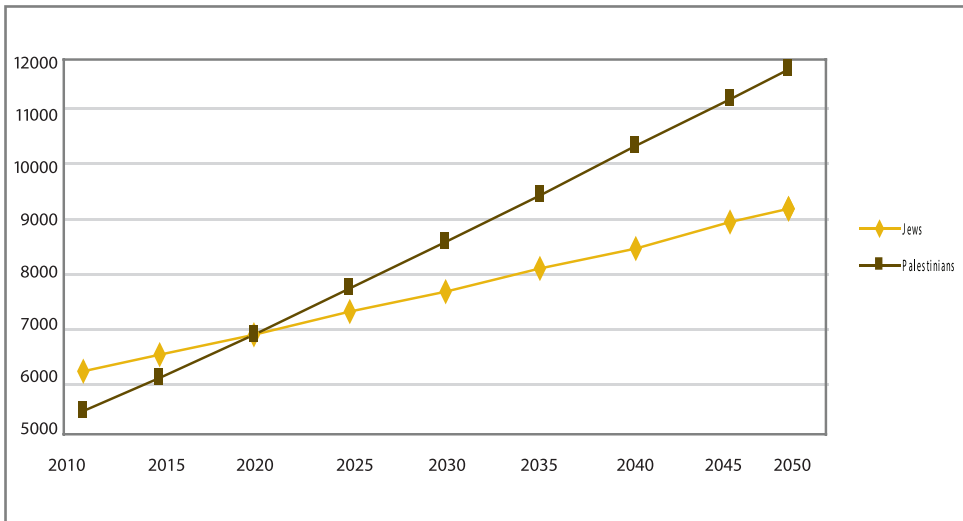

What Then Without Gaza?

Since 2005, Gaza had been detached by the Israelis from the area of direct occupation. This was mainly done for demographic reasons: few thousand settlers could not easily live amidst 1.5 million Palestinians, according to the then Prime Minister Ariel Sharon and his advisers. But their idea was certainly also to detach by all means and forever the Gaza strip from the West Bank, besides detaching East-Jerusalem from the West Bank.

Hence, it makes some sense to look at the demographic perspectives of historical Palestine excluding Gaza. (Chart 6)The political rationale behind this, is while retaining for themselves almost the entire territory of historical Palestine, Israel will still benefit from a comfortable Jewish majority, even in 2048 : 9.2 million Jews for a total of 6.7 million Palestinians living in the West Bank, in East-Jerusalem and in Israel proper.

Chart 6 : Same Perspectives, Without Gaza
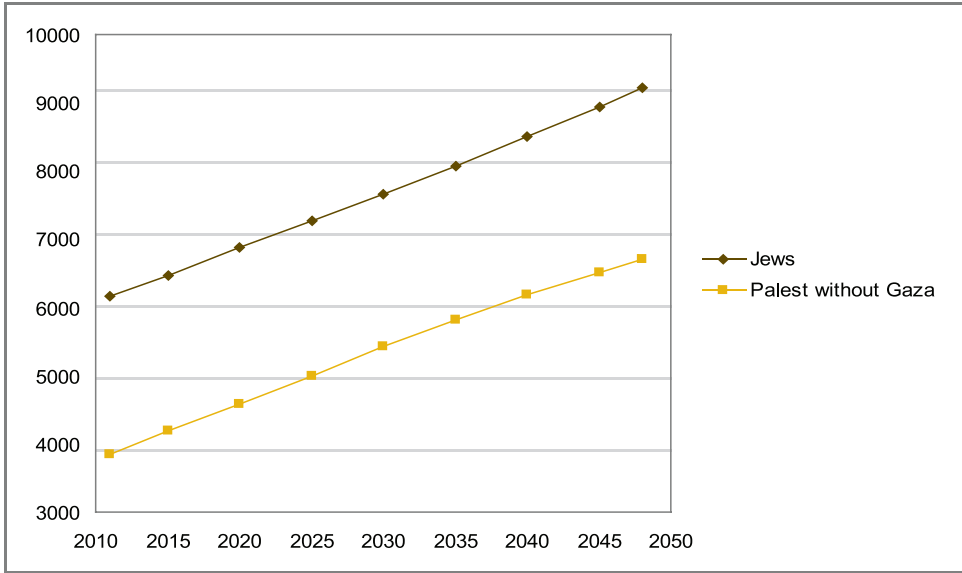
A one state, under a demographic Jewish majority becomes then conceivable. Besides, looking carefully at the trend of the two curves of this chart clearly show that after 2048, we see that the numerical advantage will remain for the Jews. Hence, a natural Israeli policy measure would be to do everything possible to detach Gaza from the Palestinian authority. Therefore for the Palestinian authority everything should be done to avoid Gaza drifting away. Failing to do this will pave the way for the creation of a One-state on almost all of historical Palestine.

The Most Serious Issue: the Demography of the Settlers in the West Bank

Chart 7 present three variants of population growth of the settlers from 2011 until 2048, based on varying assumptions of fertility and immigration. Chart 8 gives the percentage of settlers in the total population of the West Bank, (i.e. Palestinians plus Israeli settlers). The growth of settlers in the West Bank is mainly due to those living in East Jerusalem, which accounts for a little bit less than half the total number of settlers: 200 000 or more out of 560 000.

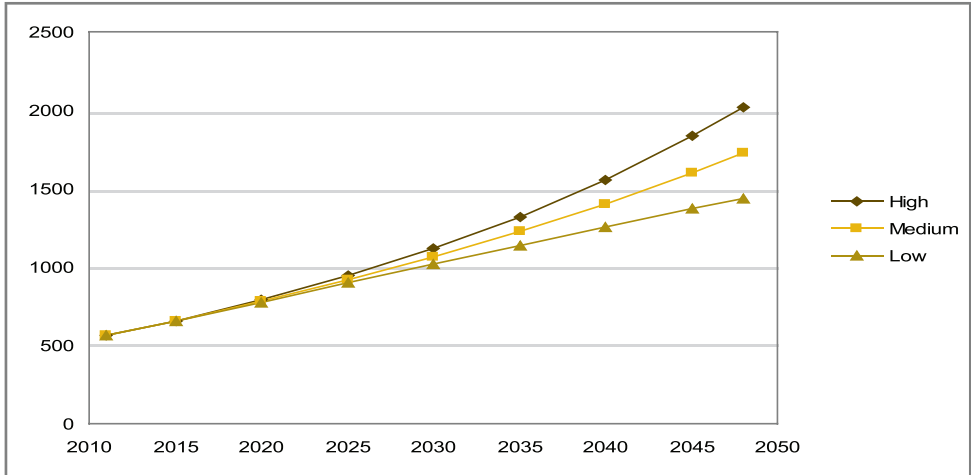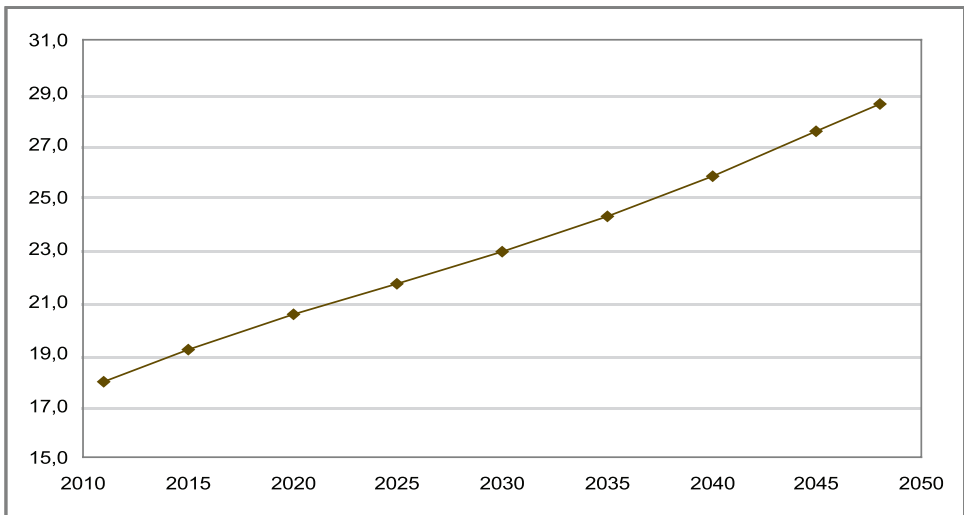**Chart 7 : The Explosion of the Settlers in the West Bank**

Chart 8: Percentage of Jewish Settlers in the West Bank (Including East-Jerusalem)

Jerusalem

In East-Jerusalem, fertility differentials among Palestinians and settlers are now much higher than before and have recently increased in 2010. Fertility differential in favor of the Jews would be the most important asset to contain the Palestinian population in Jerusalem besides an "acceptable" threshold, usually considered to be below 30%. Yet, in the whole "reunified" city the proportion of Palestinians standing now at 37.6% in the city (296 000 Palestinians for a total of 788 000 inhabitants) exceeds the "alarm" zone.

Chart 9: Past growth of the Palestinian and Jewish Populations in Jerusalem, 1972-2010
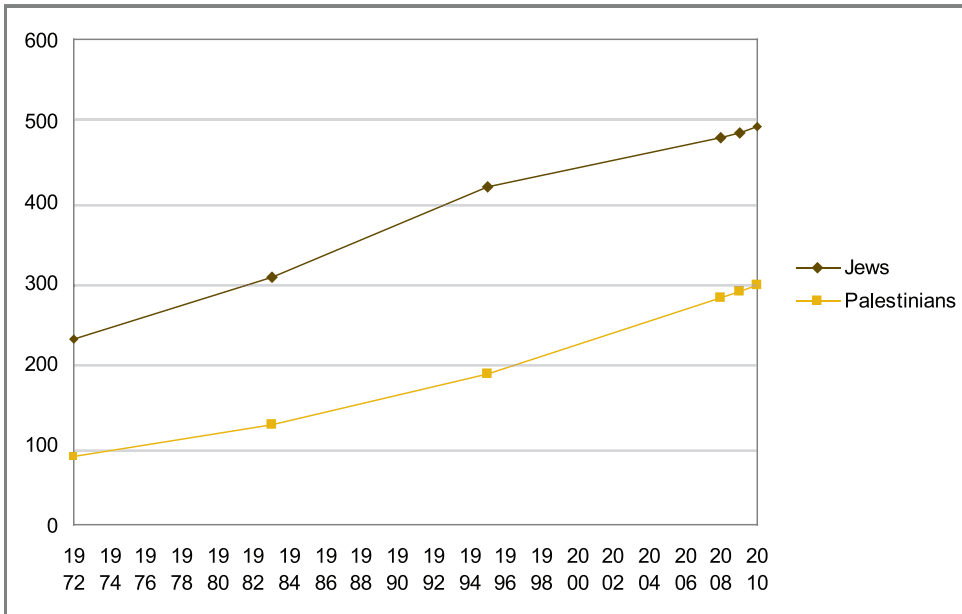
To Keep Palestinians Below 30%

Hence the proclaimed unofficial goal of the State and municipal authorities, is to limit the proportion of Palestinians to 30% of the total population. Some years ago in 2001, the Israeli demographer Sergio Della Pergola forecasted that the proportion of Palestinians would continue to increase to as high as 38-40%, to such an extent that:

"A possible shift of the majority of Jerusalem's population from the Jewish parts to the Arab and other parts", would occur.

Chart 9 presents the past growth of the two populations in Jerusalem. But these forecasts did not measure the spectacular reversal of fertility trends and were done before the increase in the building sector in the neighborhoods, which would attract an even greater number of settlers because of immigration. Since 1972, the Jewish population has been multiplied by 2.13 while the Palestinian one was multiplied by 3.5. This kind of differential growth would have undermined the Israelization of the Holy City.

Policy Measures

- The proportion of Palestinians has been regularly increasing from 27%, reaching 30% (the threshold) in 1993 to 37% now. Thus the demographic policy:

- Increase Jewish immigration to the East-Jerusalem settlements and to the Old city

- Encourage Palestinian emigration outside the city through expulsions under the

guise of administrative procedures

• Enlarge the perimeter of the city by unofficially integrating West Bank settlements: Maale Adoumim, Goush Etzion…

• And more importantly in the long term, encourage high Jewish fertility: 5.4 children per woman now (against 3.8 for Palestinians, an enormous gap).

How to Counteract?

What could be the possible policy measures for the Palestinians of Jerusalem to counteract the Israeli occupation of East-Jerusalem? Obviously, they are no more in position to play the "war of cradles" of the battle of numbers, which has definitely turned to the advantage of the Israelis. For the time being, it is difficult to imagine effective policy measures except the endless calls for the United Nations, the Arab States or the International community.

Other issues: Demographic Shifts, Political Shifts

Naturally, socio-economic and political developments impact population dynamics. Yet, demography might act also as an independent factor. One important aspect in the prospects of Palestinian population, is the demographic differentials trends between the West Bank, East-Jerusalem and the Gaza Strip. From 2011 until 2048, the three population groups will increase, but the trend will be lower in the West Bank and East-Jerusalem than in the Gaza Strip. (Chart 10).

Chart 10: Palestinian Population in the West Bank, Jerusalem and Gaza, 2011-2048
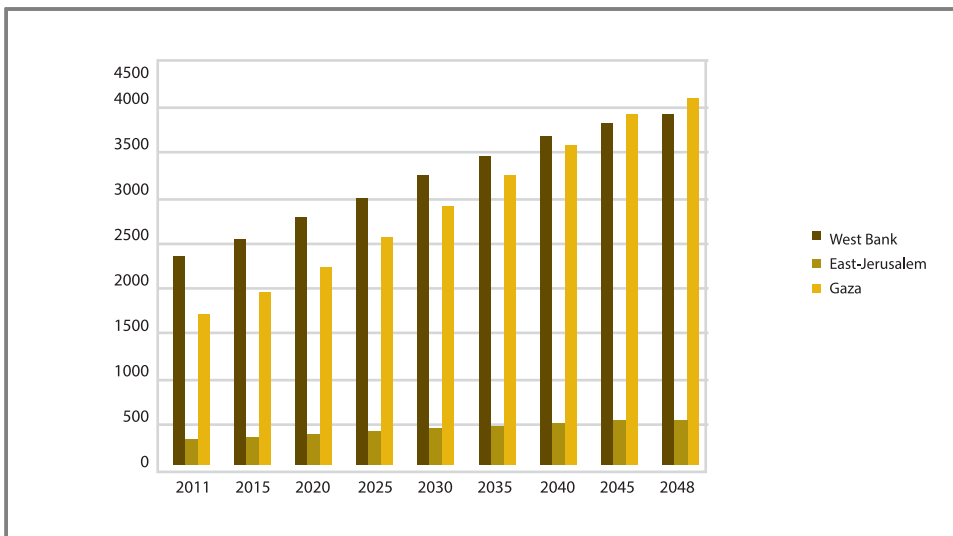
Much Higher Growth in Gaza

In the West Bank, fertility is lower and Palestinian emigration has became significant. In East-Jerusalem, the same situation exists, although more alarming, where the occupying authorities put particular pressure on the Palestinians of Jerusalem to push them to emigrate.

In Gaza, there is strong population pressure, namely in terms of population density. Yet, unless emigration from the Gaza Strip has become significant (but to where?), the population increase will be phenomenal: even if the fertility rate is to fall to the replacement level of 2.1 children per woman in 2048, the population of Gaza, 1.7 million now, will cross the threshold of 4 million (3.8 million if fertility fell to 1.7 children, a "European" level of growth).

Differential Voting Patterns in Gaza

During the last Palestinian elections, in 2006, there was a slight cleavage between the West Bank and the Gaza Strip (Chart 11).

In Gaza other parties got a marginal proportion of the vote: 8% versus 23% in the West Bank and East-Jerusalem.

Hamas won almost the absolute majority in Gaza : 48.3% whereas in the West Bank, although the first in number of votes, it was quite far from the absolute majority: 39.5%

Chart 11: Voting Patterns at the Palestinian Elections in 2006
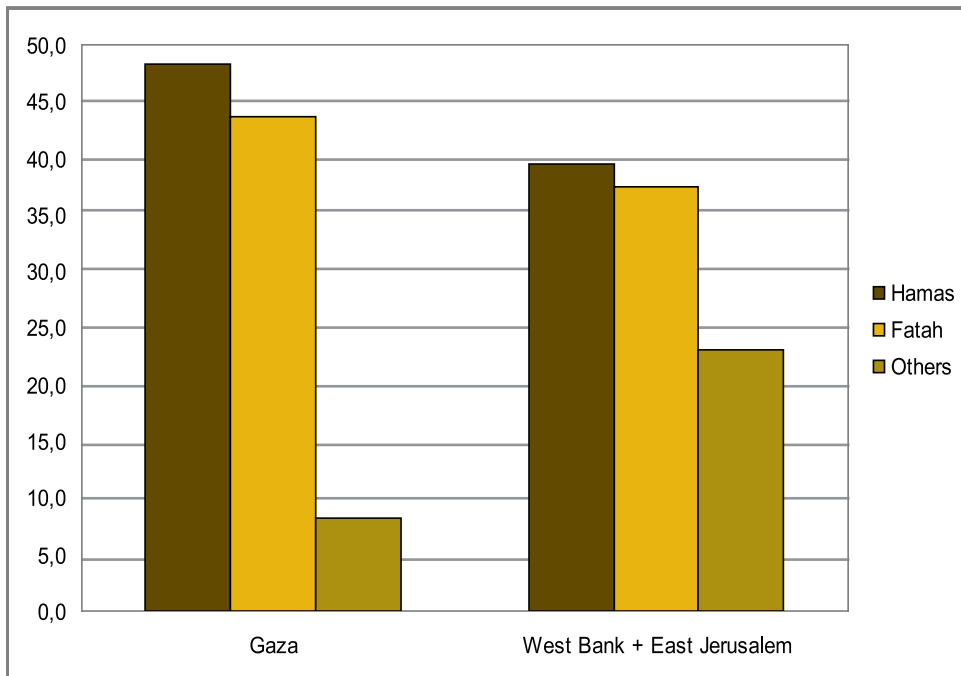
Political attitudes and voting patterns are, of course, a transient phenomenon. We cannot assume that those voting patterns of 2006, will remain forever.

Yet, for the coming years, the demographic shift from the West Bank to the Gaza strip, which will weight 48% in 2048 against 39% now, will be accompanied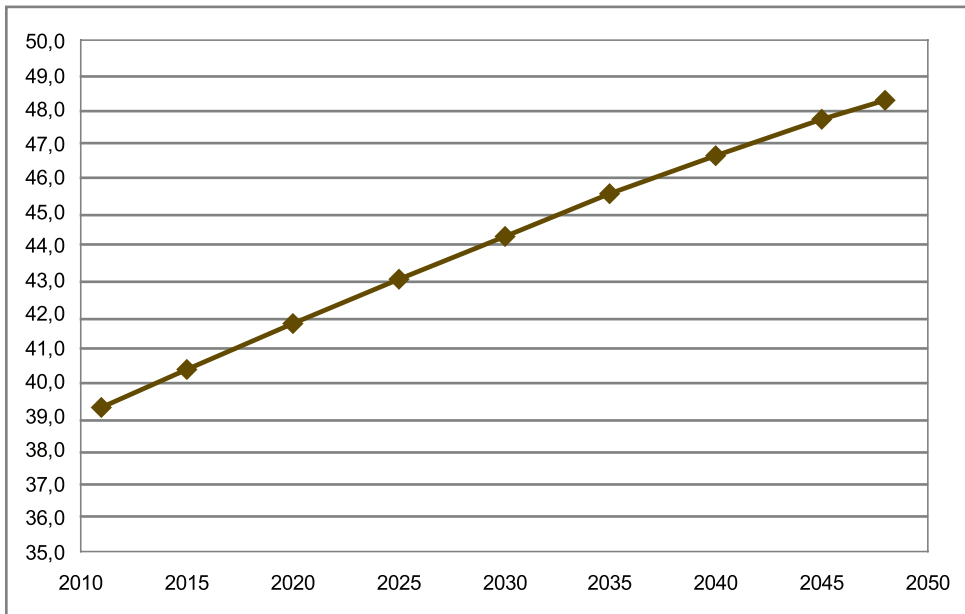 by a similar shift in the electoral body. Its political impact: more Hamas elected deputies, less PA ones, is very likely, although not certain, under mere demographic factors.

Chart 12: The Proportion of the Palestinian Population Living in Gaza, 2011-2048

The Case of the Settlers

It is well known that the Israeli settlers in the West Bank and East-Jerusalem vote for more extremist parties, to a greater extent than the population living beyond the Green Line. Here are the results at the last Knesset elections for the settlements

- Likud : 28%

- Kadima : 9%

- Ysrael Beitenu: 8%

- Shas: 11%

- United Torah: 14%

- Ichid Leumi: 20%

- Labor: 2%, Meretz: 0.5%, Hadash and Balad: 0%.

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Hence, the shift in population from the "Green Line" to the settlements, might translate mechanically into an increase of the voters for the right wing nationalists and religious parties. The number of settlers is likely to grow to such an extent to reach 1.7 million and over 18% of the Jewish population by 2048. The impact of this significant demographic shift on future elections results is likely to be disruptive.

Chart 13: The Population Growth Beyond the Green Line and in the Settlements
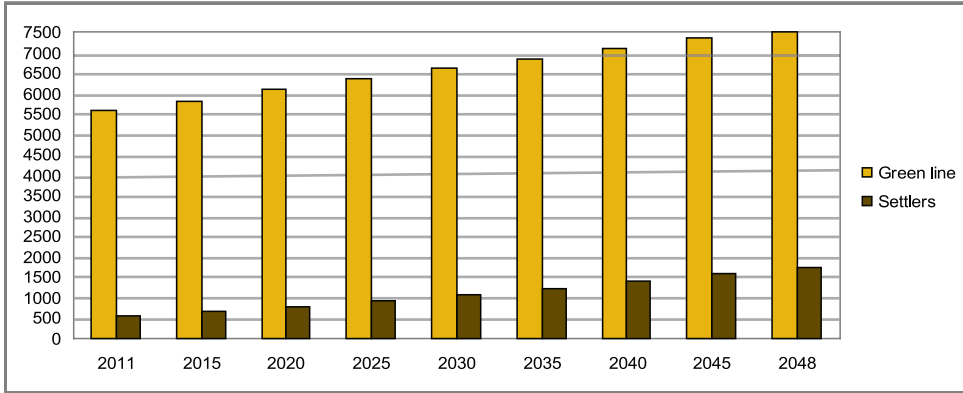
Conclusion

In 2011, recent demographic history presents one clear reality: the inversion of demographic trends. For Palestinians, demographic transition and fertility decrease has speeded. For the Israelis on the contrary, it is increasing, year by year without discontinuity.

This is a unique model in the world, which should push us to think of effective modernization processes in this part of the world.

Concerning policy measures, Israeli fertility beyond the Green Line and in the settlements has been encouraged by the demographic policy of the State to increase Jewish fertility. Billions of dollars have been spent for this purpose. Although, behind the scenes, this inversion of fertility trends might be one the most important phenomenon to be observed in historical Palestine, although not pertaining as such to the political sphere. Yet its obvious political implications are destructive to the Palestinian population, namely on the future institutions in the region and the likelihood of the implementation of a one or two state settlement.

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Liberating the Phantom Elephant: The Digitization of Oral Archives

Roger Heacock and Caroline Mall-Dibiasi

"The elephant never forgets" Universal popular wisdom

"There is no political power without control of the archive, if not of memory" Jacques Derrida

Introduction: A Reappraisal of the Archive

Let it be accepted for the sake of argument that Derrida was correct in basing his arguments regarding the force of today's archives on a philological observation, namely, the undeniable fact that the word derives from the Greek arkhe meaning "beginning" but also "commandment." If this is the case, then the existence of the archive takes us back to beginnings, that is to say, to basics, and orders us to move on from there. In Palestine, myriad archives are lying in wait, here, there and everywhere, to set us on the road to understanding the becoming of a transnational Palestinian society characterized by its dispersion ever since 1948, and its likely future transformations. The majority of Palestinians are refugees or the descendants thereof. But the large minority who are not refugees can only be assimilated to these, because their history has taken refuge in a complicated network of bounded habitats crisscrossing state borders throughout the Arab East. The present article therefore considers the issue of the as yet non-existent, non-official archives of the Palestinian people seen as a single, transnational "field" (Bourdieu's champ) having taken refuge, voluntarily or involuntarily, in one or another of the pockets to which they are reduced and confined. It will concentrate on one of these (the West Bank) in its empirical section, but it will be seen that the general model proposed, and the methodological stages adopted, are applicable to the field in its entirety.

Archives Then and Now

Traditionally, archives have been seen as the repositories of official truths, in the form of state "secrets." Hence have they become the locus of potential or actuated violence. In the words of Jacques Derrida (1996, p.7):

What is at issue here…is the violence of the archive itself, as archive, as archival violence…[E]very archive…is at once institutive and conservative. Revolutionary and traditional. An eco-nomic archive in this double sense: it keeps, it puts in reserve, it saves, but in an unnatural fashion, that is to say in making the law (nomos) or in making people respect the law… It has the force of law, of a law which is the law of the house (oikos), of the house as place, family, domicile, lineage, or institution.

Since the twentieth century, and in particular since 1945 with the capture of millions of

German documents from a large variety of venues covering a century's time, archives have been conceived as potentially unlocked, even if closed, after a period of three, four, or five decades from their production. This conception of the archive is linked to the history of photography going back to the mid-nineteenth century, the idea being that, like the human body, or for that matter a natural body (the landscape), the state would someday be laid bare in its various inner functions and decisions. This traditional view of the archive attributes nearly magical powers to it, as unlocking state and social secrets and providing a higher knowledge of the past "as it really was," in the words of the great Prussian historian Leopold von Ranke, who was himself inspired by the first and greatest arch-positivist among historians, Thucydides (Stroud 1987). We know that this positivistic vision represents an oversimplification. But at the same time, in our reverence for the archive, we normally believe that it reveals great truths, that it holds the keys to the kingdom of knowledge production. The traditional understanding has increasingly been challenged by a contemporary approach in which, although archives maintain all of their primacy, they are now seen as places which one studies less for **what** they say, and more for **how** they say them, their purpose being an epistemological more than an ontological one.

The shift from thinking of archives as depositories of records to archiving as a mode of record making draws attention…to the social and political relationships, rhetorical forms, and layered temporalities generated by and generative diverse archival constructs (Papailias 2005, p.6).

"Archive" is thus better understood as a verb than a noun. Ann Laura Stoler speaks of the latter-day archival "turn" as a "move from archive-as-source to archive-as-subject (Stoler 2009, p.44). It is particularly important to understand this fact in the Palestinian context: what are taken to be the hidden testimonies to the evils of occupation (and sometimes, to the gendered violence of families) should rather be seen as the archival document, having been poured from the breast of a (usually) subaltern Palestinian subject now narrating **itself**. Hence the importance of the Palestinian archive, since in recounting itself, it replaces the absent state of Palestine, or rather, it is and reflects the state of Palestine.

There have, of course, been a series of organizations in which the contemporary history of the Palestinians was archived: UNRWA, the Arab League, the PLO, and now the Palestinian Authority, in addition to the various countries which for a shorter or longer time became masters of various portions of the Palestinian transnational society: Egypt, Syria, Lebanon, Jordan, Israel. There is no denying that in the event, the matter of deciphering archives becomes much more complicated than for a "normal" single state entity. In the first place, most of the organizations and states named have very stringent rules for access to their archives: in some cases, such as the Egyptian one, it is a virtual impossibility for most researchers, especially where sensitive topics, countries or peoples are concerned. In the second place, data retrieved is at best fragmentary, and to the extent that it describes a social reality, provides a very partial and fragmentary, if not rudimentary, picture of the people concerned. Even in the purely imaginary event in which one were to gain unfettered access to some portion of these institutions'

archives, it would always be a skewed vision that would be provided. One need only point to the very contrasting ways in which Palestinian refugees are qualified, then organized and finally treated, from one to the other (for example, as between Jordan and Lebanon). Third of all, there is no consensus as to where the Palestinians "belong," and therefore, who they are[1] within a given archival set. For the Israelis, they are part of the Arab minority (even in the occupied territories, where they are treated as second-tier inhabitants); for the Jordanians they are citizens, albeit not equal ones, and with further differentiation based on whether they live inside or outside of the refugee camps (Massad 2001). For the Palestinian Authority they have become de facto, and under the Oslo Accords de jure, limited to the inhabitants (refugees or locals) of the West Bank, minus Jerusalem, and Gaza. The Gaza authorities also claim, on the strength of their 2006 electoral victories, to speak for residents of the occupied territories as a whole.

There are most certainly other reasons to follow the archival turn and see documents as reflecting the conditions in which they were produced, and thus as providing information regarding those who produced them, rather than relying on them in any direct sense as reliable indicators of the state of affairs within Palestinian society, even within specific spatial and temporal conditions. For the as-yet largely invisible Palestinian archive is in a sense the very opposite of that described by Stoler when she explained how,

[s]chooled to think "from the bottom up" students of colonialism located "structure" with colonizers and the colonial state, and "human agency" with subalterns, in small gestures of refusal and silence among the colonized (Stoler 2009, p. 47).

Here we deal, not with a colonial archive, but with an anti-colonial archive, one which, it will be seen, has been in turn largely colonized. The task for those who would provide a general Palestinian archive is in turn to decolonize it.

A Quest for the Non-Official Archive

We shall here be following and anticipating the archival turn, and seeking out the conditions in which a given archive was produced rather

than simply looking at it as an indicator of Palestinian lives outside of itself. Our axiom is that the Palestinian archive is wherever documents regarding the Palestinian people's lives in society are found. Our working hypothesis is that these places in turn remain to be found and identified, and their documents "liberated." This does not mean that in the future, when the archives in question have been retrieved and made widely available (at Birzeit University, for example), they may not also be treated as such indicators: indeed, taken collectively they will have to be treated in that way. In the meantime, it should be emphasized that we are not here dealing with any type of "official" archive, although the term is ambiguous, particularly in the stateless situation of the Palestinians, where there is no such thing as a state archive. (The Palestinian Authority runs ministries, but these are themselves only phantoms, indicating what their functions may be in some

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[1] The question of Palestinian identity can only be answered properly if Palestinian society is seen as a coherent transnational "field" in the sense ascribed to the term by Pierre Bourdieu (Heacock 2011).

undefined future, when more of the trappings of sovereignty will have been conquered.) Nonetheless, we are not here including any of the state-like organizations among those we are considering for the present research. Instead, we are interested in NGOs and families or individuals holding documents (and thus archives) which are of relevance to Palestinian history, politics and society. Most particularly, these are oral archives, but written affidavits or other documents are included.

There is one last and vital point to be made in this context: the documents sought after, because of their nature as oral testimonies and written affidavits in large part, are most certainly, in the main, revealers of the subaltern condition in Palestine: the people concerned, whether or not they are refugees in the literal sense, relate the travails and lives of people most of whom belong to the marginalized sections of the society: the poor, refugees, those pursued by the authorities, released prisoners, women, workers, peasants, the homeless. In this sense, the potential digitized archive at Birzeit University represents much more than an additional tool for researchers: a panoramic vision through time of the lives of those who constitute the vast majority of Palestinian society. These citizens possess a fearful type of agency and representational value posing a constant threat to those who would rule them, as shown most recently over the past quarter of a century. We thus encounter once again the embedded violence of the archive. The importance and some of the problems of the present project also reside in "the potential that the subaltern possesses (or the threat s/he poses) of becoming a full member of the community, the village, the ward and the polis (Pandey 2008, p.275)." It is also, following Chatterjee (2004), most difficult to count such elements as part of "civil" society since they are branded precisely as uncivil, although they clearly pertain to its "political" facet. One can view the present quest as part of a collective effort at inclusiveness, at supporting those thousands of persons, parts of whose lives are stored away, to force themselves onto the "civil" portion of Palestinian society. This is surely one of the reasons why many of them were willing or even eager to tell their story, sometimes at a risk to their reputation (even if only vis-à-vis the person who took it down) or even their safety.

Archives, as noted by Derrida, are in and of themselves "dumb," in other words, speechless. We are those who make them speak. However, in order for them to become dumb, they must be presented to somebody – here, the researcher, there, the politician, somewhere else, the concerned citizen. In other words, they move from non-existence, to invisibility, to speechlessness, to expression. People, amateur or professional, walk them through these various stages. And this is the process we will be following here. Our interest is in defining, locating, revealing and studying non-official archives, at first in the West Bank, wherever they may be held. To this end, we have paid initial visits to a series of NGOs, most particularly the central area from Ramallah to Bethlehem, passing through the very important nodal point of Jerusalem. The archives sought out were those which it was felt would contain significant documents based on oral, written or occasionally photographed materials regarding Palestinian lives, whether those of refugees or others (and it will remembered why all can be treated as refugees, since they were either driven out of or driven into their places of refuge).

Identification and Invention

A series of NGOs in Ramallah-al-Bireh, Jerusalem, Bethlehem and Hebron were visited as a beginning. Additional efforts need to be made at an ulterior stage to enter organizations in Nablus, Jenin and elsewhere in the West Bank, and to return to complete the process in places already seen. A larger research project will include Gaza, and a commensurate effort will be made to gather in at the very least disparate document repositories in the neighboring states, particularly Lebanon, even though they may be shorn of the vital theoretical dimension in whose purview they should be drawn.

Interviews, which were not of the ethnographic variety, but could rather be described as discussions and in some cases arguments, were carried out, involving individuals who in every case represented various types of NGOs, including Palestinian universities other than Birzeit. We have decided to respect, for the moment, the anonymity of both the NGOs and the individuals interviewed, in order to keep the doors open for further discussions intended finally to help to forge the types of links that will bring to fruition the longer-term project of gathering and digitizing as many relevant documents as possible.[2] We simply individuate the institutions by referring to them as **A, B, C,** and so on.

Such meetings took place, sometimes more than once, in order to ferret out the discourse of directors, managers, documentalists, archivists and librarians of a variety of NGOs and the possible considerations lying behind their discourse. It was found that the potential archive was enormous, a kind of elephant whose component parts lurked in many of the offices visited. But it is at this stage clearly still a phantom elephant, and the project needs to be carried forward with even greater vigor and determination in the future. The types of NGOs and individuals approached were those dealing with oral histories in general, with the recollections of refugees, with prisoners, with legal matters, with women, with children. Chronologically, the documents were collected by these organizations mainly beginning with the late 1970s, with peaks before and during the first intifada (1987- 1993), through the Oslo period (although in lesser volume where non-official items are concerned) and again from 2003 to 2007.

First Contacts, First Discussions

In what follows, we will draw a picture of the problems facing the researcher wishing to obtain a clear picture of the content of archives and a real commitment to cooperate in making them public by allowing Birzeit to copy and digitize those among them which fit the definition. The problems described in a general way emerged in every case from the discussions with representatives of these organizations.

In the first place, it is a very painful prospect for organizations having worked years, sometimes decades, in the field, gathering information, testimonies and affidavits,

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[2] There is however at the end of this article a list of the NGOs, either visited or not, and which were and may still be considered constitutive of the potential archive. The sources of the various affirmations, ideas, suggestions and projections are in the possession of the authors and the editor of the present article. In an extended piece of research, the list would be modified, with institutions added and removed, as a function of what is found about the type of documents they hold or do not hold.

always in difficult conditions and sometimes at considerable risk, suddenly to be asked to "share" that information with another organization which did no work and made no gambles, just because it considers it is in the long run the right thing to do. This consideration in itself may be cause for refusing to relinquish documents, even when they are available, under specific conditions, to individual researchers **(D)**.

The importance of the project was known to us before research and fieldwork had even begun, because of notorious cases of documents having been stolen (by Israel), or having disappeared. In the course of the fieldwork, it was in fact discovered that there were cases of materials being declared "too old" or "spoiled" – this with respect to cassette tapes **(I)**. In a similar case, it was stated that materials had disappeared and could not be "unearthed" **(F)**. In another, interviews could not be found, the CDs had been misplaced, and perhaps some staff that had recently left might have taken them along **(L).**

In a clear spirit of cooperation, one institution of higher education counseled that one should in no case use student volunteers for documentation, recording , photography or digitization, because the work is mediocre and sometimes unusable **(M)**.

Institutional Responsibility

Visits to a series of NGOs likely to hold archive-constituting documents took place from May through August 2010, and yielded a series of interesting but not generally encouraging results in the immediate sense. This does not mean that results will not be achieved when a serious effort to collect and digitize gets underway, and pressure exercised by the ongoing activity itself (the inertial force of praxis) begins to build.

Perhaps the major initial obstacle when dealing with the issue of documents in the NGOs is that of speaking to the "right" employee. And the right one is not necessarily only the one at the top of the organization. Just as the librarian or documentalist will say that he or she must consult his or her hierarchical superior **(A, D)**, so the person in overall charge of the organization is likely, if there is any doubt as to whether they wish to go ahead, to state that this lies within the purview of the specialized employee, or perhaps an external person such as a lawyer. If the person in question is absent, then one needs to return, and one is likely to find someone else to answer questions. The discussion is then likely to begin all over again, with the necessary explanation of our objective, and a possible analogous response. This series of interactions occurred more than once, leaving our researcher stuck at the entrance to the subject. Prolonged delays are thus built into the project, because the employees have deferred to one another and thus avoided taking institutional responsibility for something which is thus demonstrably important and new **(B)**. In one case, there was a refusal to meet our researcher a second time under any circumstances **(K)**. In certain cases, official letters were requested from the University. These were of course produced, but did not at that stage seem to make much difference **(D, H)**. In purely "technical" terms there are also many barriers. These are, however, closely linked to substantive ones: there would have been greater interest had it been felt it was an important enough quest for the organization in question, and

for the country. Making contact was often a problem: emails were most often ignored; in the case of personal visits it emerged that the relevant people were not present, or were busy, and over the phone people often seemed not so keen to talk (Mall-Dibiasi 2010).

And be it emphasized from the outset that in at least one case there was great enthusiasm for the project, to the point of fearing rather that it would remain stuck in the stage of pious intent, and not be implemented in the longer run for lack of will or funds **(G)**.

It was also found that different employees of various ranks tended to give different responses or explanations to identical questions regarding the presence of certain types of documents and their availability as constituents of the archive. The numbers of available documents varied, depending on whom one might speak to, from half a dozen to hundreds. It also happened that the same employee, encountered on successive visits, gave different answers each time, regarding the very presence or absence of relevant documents, and not simply their availability. This may in fact actually have been the product of ignorance (covered up the first time, and again, lending urgency to the project because of the possibility of a more generalized incompetence), or once again, part of a discourse of avoidance (A). Another response was at first to deny there were any documents, but only things like newspaper clippings, and later to state that, yes, there were some, but these would only ever be made available to "researchers" (J). The quid pro quo was here interesting, and indicative of the self image of the two parties to the discussion, and the definition of what a researcher is, whether an individual or an enabling institution.

Another characteristic response is that there are testimonies, interviews and affidavits, but all are confidential, and access is therefore excluded, not simply restricted, not subject to particular conditions. A reinforcing argument was that they are not made available to anyone, not even those who may argue a 'need to know', such as lawyers. There was no indication upon making this argument that the situation might change sometime in the future: the present is frozen and projected forward indefinitely **(B)**.

In one case, it was simply and clearly stated that there would be no access to raw materials, that there was no intention of digitizing them, and that one would simply have to wait until such time as they would be available as hard copies **(K)**. This particular answer was also a cause for concern, because the organization in question is one of the ones that, for reasons of poverty and fragility, might well be destined for extinction.

Sometimes we were told that some data, but in no case all, could be passed on, after a thorough process of rendering it anonymous, which they themselves would do and which would take time. In addition, the subject matter would exclusively deal with Israeli violations, not with problems within Palestinian society **(H)**. There was no consideration given at this early stage to an arrangement whereby information (anonymized if necessary) would not be made public before a certain number of years. It was remarkable to find that among the most advanced and progressive persons, only external confrontations could be recounted, internal ones having to be silenced because of the shame attached to them.

In certain cases, it will be openly admitted that the relevant type of materials exists in large numbers, by the hundreds, within the organization, representing hundreds of hours of recordings, it being understood that they will be made available on the internet but that we can make copies. This seemed to indicate future cooperation, even if the second visit yielded results that were not as clear. Here again, there are contradictions between various employees. Did they have certain collections, or not? Employees gave different answers (C). When we were directed to a website for details about holdings, with the admonition that one should return with more specific requests, it generally happened that the website in question was unavailable, old or user-unfriendly **(B)**.

It became apparent that the actual whereabouts of certain important and rare documents were genuinely unknown by those entrusted with their safekeeping **(A)**. Indeed, some people indicated that specifically requested sets of documents were in another organization, whose employees thought they were in a third **(C).** One recurring response can be characterized as the "under construction" discourse. The archive, we were told, was still being "catalogued," "digitalized" or "sorted out," or otherwise found itself in a transitional, and therefore unattainable, phase. It would typically take another two months, perhaps until the fall, or, in one instance, just two more weeks before they were ready to be consulted. The good intentions, the firm schedule, the impending perfection-in-waiting, remain to be tested, with every likelihood that the future will then have edged forward like the afternoon shadow of an elephant moving eastward **(C, D, E)**. The argument is then followed by one of two conclusions: either the researcher is invited to return immediately after the state period has passed (C, D) or s/he is told that it will remain to be decided, presumably by the full-fledged collegiate leadership of the organization, whether it remains in their interest to share the documents.

The broader issue raised by the "moving shadow" argument is the recurrent one which asks what the corporate interest might be in sharing data with another organization. In the Palestinian context, it is difficult effectively to transmit the message that Birzeit is not a competing corporation, but represents a general and disinterested (and thus implicitly, a higher) repository, whose longevity is guaranteed and which will also pay due tribute to the organization in the digitization process, thus likewise ensuring that the NGO's work will be recognized by a much wider audience of researchers and readers.

The historical requirements of secrecy and decentralization in resistance to the occupation, as well as the four- or five-way factional split which is a historical factor still partially present, render this a very hard argument to make in a convincing manner, and one which will require high-level outreach and diplomacy on the part of Birzeit University when the time comes.

This does not mean in any sense that the organizations visited, or some of them, showed no good will – the problem was, as has been seen, rather one of communication and set values. One of them entered into a detailed discussion of modalities for sharing their documents, and finding out, for example, how a type of 'copyright' (which is by definition incompatible with the open archive idea, but a decided step in its direction) could be preserved for them, but then permitted us to begin copying some of their documents as a type of preliminary exercise **(F)**. Administrators of another organization immediately

saw the point of the operation **(H)**, but declared themselves highly reluctant to part with a good many documents because of their highly "sensitive" nature. On the other hand, they suggested negotiating strict terms for access and reproduction. In one case, and after a set of discussions resulted in agreement in principle, it was stated, almost as an afterthought, that in the best of cases some documents would be withheld because of their confidentiality, without any clear explanation of the basis for this proviso **(D)**. Giving up secrecy in part is difficult, in the local context. Giving it up entirely is unthinkable.

The ambiguity of our project in its present phase, because of the as yet phantom nature of the potential archive (something for which the research project is co-responsible because of our insistence that it remain open initially) made it possible, indeed necessary, for one organization – and, potentially, analogous ones – to ask for more details regarding our quest **(F)** as a prerequisite to sharing documents. Materials available are too vast, we were told, but a more specific approach would most certainly be welcomed. This in turn remains to be seen.

In some cases, access to more senior persons in the NGO was requested and denied, and might conceivably have yielded some of the desired results had it been allowed. On the other hand, the researcher's general impression was that "many organizations did not see the benefit in sharing their work but rather saw it as giving their data and work away from free and they seemed very protective about any significant information regarding their material," (Mall-Dibiasi 2010) to the point where it might have seemed better to continue only with the organizations (such as **G**) that had from the outset proven themselves enthusiastic about moving forward. Indeed, at a higher level of abstraction, it was found that the very concept of the primary source is difficult for people to understand, at least in the context in which they are placed as employees and administrators of what one might call focused (rather than generalist) NGOs. This is no way to impugn the capacities of these people; on the contrary, they are living testimony to the fact that the primary source needs to be invented in the Palestinian context (as it has been or must be everywhere else), and indeed, this is part of the purpose of the project which lies behind this first stab at producing written research results.

Conclusion

The question arises as soon as testimonies are produced: whose property are they? That of the person who gave them? But then, they would not have spoken in a type of public forum. That of the registering organization? This aspect was present, explicitly or implicitly, in all of the discussions held between the researcher and the various people she engaged. Property implies "private property" and thus "privacy," with revelations possibly permitted but not obligatory, and secrets kept, so that the revelation is of necessity partial. The fact of the matter is that state archives function in precisely the same way as the "unofficial" archives we are after: the property is defined as "public" rather than private, but the concept of public implies security (since the state is charged with the security of its citizens, against foreign or domestic enemies, who are fellow citizens). Contract theory delegates responsibilities to the state from the community, their collective property being "privatized" by the state. Be that as it may, individuals in the Palestinian context do not recognize the public nature of their archiving activities, except to the extent that they themselves are prepared to "publicize" them in the form of various types of documentary or narrative publications, whether written or oral.[3]

The same is true, under a variety of guises, of the intermediary (so-called non-governmental) institutions, through the mediation of their representatives. There may be free access of individuals to some of the archived materials. In this way, the basis for ethnographic research is generated from inside the archive. This is feasible in a number of NGOs in the West Bank. The documents remain captive, with access permitted under conditions. But the general "freeing" of the archive (and allowing it, as described in the theoretical introduction, to "narrate itself") is an additional and drastic step that few are willing to take. And, indeed, the types of recurring agreements to justify the practice are at the present time very similar those found elsewhere, notably in Greece:

[S]ome might have expected (and preferred) that I use the word collection, which first brings to mind the individual and the concept of private property. As processes of gathering and organizing material signs and objects into circumscribed spaces and holding on to them, collecting and archiving can be seen as closely related, even overlapping, practices that mediate between display and concealment as well as between private and public spaces (Papailias 2005, p.3).

Some type of synthesis between general considerations regarding the archive on the one hand, and the actually existing potential, unofficial archives in one part of Palestine subject to a regime of strictly limited autonomy on the other, suggest that every element in the archive must aspire to openness and thus, in Derridian terms, to the "end of violence." If in some cases this requires anonymization, this may be considered and then carried out, as long as a given document (oral or written) is not thereby disfigured. (This has been accomplished successfully and rather recently by the Wikileaks team itself in releasing its massive archive, and by the print media that first reproduced and analyzed Wikileaks documents – The Guardian, Le Monde, Der Spiegel, El Pais). The purpose of

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[3] Here the issue of private collections is raised, of which there are a series, and which must in future also be included in a continued digitization project. There are widely differing attitudes on the part of these individuals to sharing their documents.

such a measure would be to protect individuals rather than society as a whole, which must protect itself, which only benefits from openness, and cannot possibly suffer from revelations regarding the unspoken underside of violence, greed, corruption or gender, ethnic, religious or class discrimination.

The ultimate purpose of any digitization project is to make it possible to interpret and evaluate data, and not simply to present it. In order to interpret, one must first possess, even in regard to the longstanding conflict with Israel and the clash over meaning with Israeli archives (which are largely colonial in nature). This public possession (in fact a repossession) will ultimately make possible an anticolonial, archivally-based corpus which finally renders it impossible for the Palestinian narrative to be ignored as being biased, subjective, exaggerated or invented.

The road ahead is a long one. Many people, institutions, families, parties and social groups must be convinced, a daunting challenge with uncertain prospects for success. As noted by one of the authors, the one who did all of the fieldwork, "[s]ometimes organizations simply did not see the benefit in research or preservation, but thought advocacy and support were much more significant objectives" (Mall-Dibiasi 2010). This illustrates the extent to which a good number of people are still deeply ensconced in a struggle-mindset, which is understandable, but in fact not incompatible with the increasingly dominant research and documentation approach.

The dangers of failure of a vast project such as this one are considerable. Should the phantom elephant ever be liberated and take on substance, and information be extracted from its current secretive encasements, there is every likelihood that the basis will thus be established for a type of cultural conflict over the enormous wealth of self-narration unearthed and publicized. This is a risk that must be taken, for the sake of a future in which historical and social transparency takes shape throughout the wide expanse of the Palestinian transnational field as a whole.

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Annex: Types of Organizations Visited or Contacted

Ramallah

- Addameer
- Bisan Center
- Birzeit University: Center for Continuing Education
- Center for Democracy and Workers Rights
- Defence for Children International (Palestinian Branch)
- Al-Haq
- Hurryiyat
- In'ash al usra
- Independent Commission for Human Rights
- Institute for Palestine Studies
- Khalil Sakakini Cultural Center
- Miftah
- Muassasat
- Mwatin
- PACE
- Palestinian Women's Research and Documentation Center
- Palestinian Center for Human Rights
- Panorama Center (Democracy and Community Development)
- PASSIA
- PLO Refugee Department
- Popular Art Center
- Shams
- Sharek Youth Forum
- Tamer Institute for Community Education
- Women's Center for Legal Aid and Counselling
- Women's Technical Affairs Committee

Abu Dis

- Al-Quds University Prisoners' Museum

Bethlehem

- Alternative Information Center
- Applied Research Institute Jerusalem (ARIJ)
- BADIL Resource Center for Palestinian Residency & Refuge

- Bethlehem University and Turathuna Center for Palestinian Heritage
- Center for Heritage Preservation
- Cultural Heritage Center
- Ensan Center
- Ibdaa Cultural Center
- Laje'oon Center, Aida Refugee Camp
- Palestinian Center for Public Opinion
- Prisoner's Club

Hebron
- Hebron University
- Land Research Center

Jerusalem
- Arab Studies Society
- Arab Thought Forum
- B'tselem
- The Civic Coalition for Defending the Palestinians' Rights in
- Jerusalem
- Jerusalem Women's Center
- Human Rights Monitoring Group
- Kenyon Institute
- PASSIA
- UNIFEM
- Women Studies Center (Beit Hanina)
- Youth Development Department (Beit Hanina)

Nablus
- Yafa Center

Jenin
- Not to Forget

The Rights of Palestinian Refugees: Current Challenges and Possible Solutions

Alexander Kouttab

Introduction

Few issues have defined Palestinian politics as much over the past six decades as the fate of Palestinian refugees, and few have experienced such mixed political fortunes. In the late 1950's and early 1960's, the goal of liberation and return to Palestine served as the moment of renewal for a Palestinian national movement struggling to come to terms with the devastation of the 1948 Nakba. Arguably, this reached its height in the years immediately following the 6 June 1967 war. From the mid-1970's onwards, however, the goal of return looked increasingly out of place as the political momentum shifted towards official supportfor the establishment of an independent Palestinian state within the June 1967 borders. This was particularly the case following the signing of the Declaration of Principles on Interim Self-Government Arrangements (hereafter the DOP) in 1993. Indefinitely deferred until permanent status negotiations, the refugee question became all but invisible. There have been no significant diplomatic initiatives on the issue for at least the last two decades, nor has any progress been made in reversing their plight. Against this backdrop, this paper begins to assess possible strategic options aimed at refocusing political interest on the refugee question with the view to achieving a just resolution for refugees in keeping with international law.

Palestinian Refugees: 1948, 1967 and Today

The first wave of Palestinian refugees dates back to 19478-, when over three-quarters of a million Palestinians fled or were expelled from their homes in the violence surrounding the 1948 war. The overwhelming majority were forced into exile or internally displaced. Prevented from returning to their homes, the newly established state of Israel took over control of their property, as well as vast tracts of Palestinian land, some of which it leased out and some of which it sold to the Jewish National Fund, whose charter forbade it from leasing or selling to non-Jews. Israel also set about systematically destroying a large number of Palestinian villages, erasing them completely and often settling Jewish communities in their place. Estimates of the number of Palestinian villages destroyed range between 360 and 429.[1]

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1 Michael Fischbach, Records of Dispossession: Palestinian Refugee Property and the Arab-Israeli Conflict, Columbia University Press, New York, 2003, p. 4. As Fischbach explains: "Over the decades several studies have attempted to quantify the number of villages abandoned by Palestinians in 1948. In some cases, researchers also have tried to determine how many of these villages later were destroyed. Most estimates mention between 360 and 429 destroyed villages. The Israeli government cited a figure of 360 abandoned villages to the U.S. State Department in 1949. A study from the 1960s by the Palestinian lawyer Sabri Jiryis claimed that 374 abandoned Palestinian communities were destroyed by the Israelis. Anti-Zionist Jewish activist Israel Shahak cited a figure of 385 destroyed villages in 1973. Recent studies by Israeli and Palestinian scholars also vary, with Israeli estimates once again somewhat lower. Israeli scholar Benny Morris's detailed study of the question produced a figure of 369 abandoned localities. Palestinian geographer Ghazi Falah cited a figure of 418 "depopulated" villages, the same number as Palestinian scholar Walid Khalidi's thorough study of the

These and other Israeli measures designed to prevent Palestinians from returning, were undertaken in direct violation of UN General Assembly Resolution 194 (hereafter UNGAR 194), passed on 11 December 1948, which explicitly mandated the 'right of return' for Palestinian refugees. A well-established norm under international law, the right of return is derived from several international law instruments including the Universal Declaration of Human Rights (Article 13: "everyone has the right to… return to his country") and The International Covenant on Civil and Political Rights (Article 12: "No one shall be arbitrarily deprived of the right to enter his own country"). In particular, paragraph 11 of UNGAR 194 states:

> "…the refugees wishing to return to their homes and live at peace with their neighbors should be permitted to do so at the earliest practicable date, and that compensation should be paid for the property of those choosing not to return and for loss of or damage to property which, under principles of international law or in equity, should be made good by the Governments or authorities responsible."[2]

Over the last six decades, the UN General Assembly has regularly reaffirmed UNGAR 194 with near universal consensus. Denied their right of return, however, there are now almost 4.8 million 1948 refugees and their descendants who are registered with UNRWA,[3] and a further 1.5 million 1948 refugees who are not registered with UNRWA.[4] Rather than consigned to the past, the grievances of 1948 remain very much alive today.

The June 6 1967 war resulted in a second wave of Palestinian refugees, with over 400,000 Palestinians from the occupied West Bank, including East Jerusalem, and the Gaza Strip, fleeing their homes in response to the violence.[5] Immediately following the 1967 war, and much in the same way as it had done in the aftermath of the 1948 war, Israel introduced a series of military orders and emergency measures in the West Bank and Gaza Strip aimed at regulating Palestinian life, as well as ceding land from Palestinian control.[6] Since 1967, many more Palestinians have been displaced as a result of the policies implemented by Israel in the occupied Palestinian territory, including home demolitions, land confiscation, ID revocation (for East Jerusalem ID holders) and deportation. Still in effect today, these policies highlight how dispossession, displacement and loss continue to define and distort Palestinian life under occupation. They epitomize the Palestinian experience of Israel since 1948.

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issue. (Falah and Khalidi used some of same sources, which helps account for the fact that they arrived at the same figure). Basheer Nijim and Bishara Muammar claim the highest number of "destroyed" villages: 427 and possibly 429."

[2] For the full text of UNGA 194, see: http://daccess-dds-ny.un.org/doc/RESOLUTION/GEN/NR065/043//IMG/NR004365.pdf?OpenElement

[3] UNRWA statistics available at: http://www.unrwa.org/etemplate.php?id=253

[4] PLO Negotiations Affairs Department, Palestinian Refugees, Fact Sheet, updated May 2011, retrievable at: http://www.nad-plo.org/userfiles/file/FAQ/Refugees_FAQ_Fact%20Sheet_May2011.pdf

[5] Ibid.

[6] Israel also implemented a series of laws previously introduced during the Ottoman, British and Jordanian periods of rule to devastating effect in its confiscation of large tracts of Palestinian land. In particular, see B'Tselem, Land Grab: Israel's Settlement Policy in the West Bank, May 2002, retrievable at: http://www.btselem.org/download/200205_land_grab_eng.pdf

A Short History: the Refugee Question Then and Now

Within Palestinian political circles, the return of Palestinian refugees was initially subsumed within the more immediate goal of liberating all of Palestine. Only later was it referred to as a 'right' guaranteed under international law. Liberation and return were understood to mean one and the same thing: only by liberating Palestine would refugees be able to return to their land and reclaim their property and livelihoods. Liberation here meant all of mandate Palestine, which was to be made whole again as a single, secular democratic state. In turn, liberation and return were seen as essential prerequisites for Palestinian self-determination. Indeed, the linkages between liberation, return and self-determination were understood to be self-evident, and inform numerous official Palestinian statements and declarations, including Article 9 of the Palestinian National Charter, which was revised in 1967 to endorse armed struggle for "the liberation of the homeland, the return to it, and self-determination in and sovereignty over Palestine."[7] These same linkages were also reinforced in a number of UN General Assembly resolutions declaring both the right of return and Palestinian self-determination to be inalienable rights belonging to the Palestinian people, as well as fundamental requirements for securing lasting peace in the Middle East.[8]

From the late 1950's and throughout the 1960's, a number of new political voices were to emerge mainly among Palestinian refugee communities in Egypt, Lebanon and elsewhere. Espousing a new type of politics centered on self-reliance and armed struggle, they were vastly different in both tone and temperament to Palestine's traditional landowning elite, which had hitherto dominated the Palestinian political landscape. A number of new political factions were created, including

 Fatah and several left groups like the Popular Front for the Liberation of Palestine (PFLP). In addition to self-reliance and armed struggle, many prioritized Palestinian 'particularism' over pan-Arabism, and were actively associated with other third world struggles against colonialism and imperial intervention. Following Israel's defeat of Egypt, Syria and Jordan during the June 1967 war, these same factions would come to dominate the political landscape, and become key players in the PLO. Particularly following Fatah's ascendency to the chairmanship of the PLO in 1967, the organization became the main exponent of liberation through armed struggle, and a tireless advocate of return.[9]

Over the course of the 1970's and 1980's, the PLO's official position on the refugee question was to significantly change. This change was to coincide with the reorientation

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[7] Jaber Suleiman, "The Palestinian Liberation Organization: From the Right of Return to Bantustan," in Naseer Aruri (ed.), *Palestinian Refugees: The Right of Retur*n, Pluto Press: London, 2001, p. 92.

[8] In particular, see UN General Assembly Resolution 3236 on the 'Question of Palestine', passed on November 22 1974, which reaffirms both "the right to self-determination without external interference," as well as the "right of the Palestinians to return to their homes and property from which they have been displaced and uprooted, and calls for their return," as inalienable rights belonging to the Palestinian people as well as "indispensible for the solution of the question of Palestine," retrievable at:

http://daccess-dds-ny.un.org/doc/RESOLUTION/GEN/NR038/738//IMG/NR073838.pdf?OpenElement

[9] Formed in 1964, the PLO was initially used as a vehicle to promote a range of pan-Arab policies, whose main focus was on Arab unification as an essential prerequisite for Palestine's liberation.

of PLO policy away from the promise to liberate all of mandate Palestine, towards the more modest goal of establishing a Palestinian state within the June 1967 border. Increasingly, the question of return was treated separately as a 'right' framed by international law, one only tangentially connected to aspirations for independence and statehood. This shift in focus would become more prevalent over time as the linkages between liberation, return and self-determination were weakened and eventually severed. Jaber Suleiman traces this change to the twelfth session of the Palestinian National Council held in June 1974, and the adoption of the ten point Provisional Political Programme.[10] Marking a significant departure from previous PLO policy, and foreshadowing the two-state solution by nearly two decades, the programme calls for the establishment of a Palestinian state on any part of Palestine that is liberated. It also makes reference to the 'right of return' for refugees, the first time any official Palestinian document had done so, which it treats separately from the goal of liberation.[11] The outbreak of the first Intifada in December 1987 would further consolidate this policy shift. As Suleiman observes, following the Intifada, the Palestinian leadership acted in the belief that it had:

"…shifted the centre of gravity of Palestinian struggle [sic] from outside to inside Palestine, and provided the impetus to implement the provisional political position which would lead to the establishment of an independent Palestinian state."[12]

Adoption of the declaration of independence during the nineteenth session of the Palestinian National Council held in Algiers in 1988, would all but cement the two-state solution as official PLO policy.

Following the signing of the DOP in 1993, the refugee question was reformatted within the context of bilateral negotiations as one of six permanent status issues to be resolved during final status talks. Under the formula that structures the DOP, however, final status negotiations are effectively held hostage to progress being made on a range of interim agreements largely framed as "confidence building measures." Two decades later, these negotiations have yet to take place. Among its many weaknesses, the DOP fails to outline separate terms of reference or a specific agenda to structure final status negotiations on refugees, and is ambiguous at best on who is to be included as a 'refugee'. It makes no mention of UNGAR 194: instead, the only legal reference it includes stipulates that "negotiations on the permanent status will lead to the implementation of Security Council Resolutions 242 (1967) and 338 (1973)."[13] In summary, the DOP deferred negotiations on refugees indefinitely, effectively tying the hands of Palestinians in the process, and sidelined important international legal norms and relevant UN resolutions.[14]

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[10] Jaber Suleiman, "The Palestinian Liberation Organization: From the Right of Return to Bantustan," pp. 92 - 95.

[11] Ibid, pp. 93 - 94.

[12] Ibid, p. 96.

[13] The full text of the Declaration of Principles on Interim Self-Government Arrangements is retrievable at: http://www.unhcr.org/refworld/publisher,ARAB,,,3de5e96e4,0.html

[14] Notwithstanding, it can be plausibly argued that in calling for "a just settlement of the refugee issue," UNSCR 242 provides for the inclusion of UNGAR 194 as part of the terms of reference for the DOP, given that it serves as the UN's most definitive statement to date on what a "just settlement" for refugees will entail. In addition, the UN General Assembly has continued to support UNGAR 194 up until the present day. The full text on UNSCR 242 is retrievable at:

Current PLO Policy on Refugees

Under international law, restitution constitutes the primary remedy for individuals who have lost property, including in times of violent conflict. As we have seen, this principle has been repeatedly reaffirmed in the case of Palestinian refugees in the form of UNGAR 194. It has also been recognized by the international community elsewhere, including Bosnia and Kosovo where large-scale property restitution programs were established after hostilities ended. Importantly, restitution is not dependent on return. Rather, the two constitute separate rights. Thus, a refugee who chooses not return to their former home still has the right to repossess his/her property. In addition, Palestinian refugees also have the right to compensation for both material and non-material damages. This includes compensation for lost property in the event that a refugee chooses to waive his/her right to restitution.

While trying to incorporate each of these elements, the PLO's policy on refugees is largely shaped by the tensions that exist between the right of return, on the one hand, and the political goal of statehood on the other. In particular, the PLO has introduced a distinction between recognition of the right of return from its means of implementation. Under this formula, while the PLO continues to insist on recognition of the right of return as an essential prerequisite for any agreement (that is, Israel's recognition of its moral and legal responsibility for the dispossession of Palestinian refugees), it advocates providing refugees with a "menu of options" that list different solutions designed to end their refugee status without necessarily involving their actual return to Israel. These options include repatriation to Israel, resettlement in a future Palestinian state, resettlement and integration in a refugee's host country, and relocation to a third country. In devising a menu of options, the PLO has sought to foreground the importance of refugee choice as an antidote to the experiences of disempowerment, disenfranchisement and forced exile that all refugees face.

More recently, the PLO has thrown its support behind the "Arab Peace Initiative" (API) first adopted by the Arab League in March 2002 and later by the Organization of the Islamic Conference (OIC) in April 2002.[15] Intended as a template for comprehensive regional peace, the API calls for "…a just solution to the Palestinian Refugee problem to be agreed upon in accordance with UN General Assembly Resolution 194."[16] This formula of a just and agreed solution for refugees neatly corresponds to the distinction the PLO makes between recognition and implementation of the right of return: by definition, a just solution must adhere to the rights of Palestinian refugees, including the right of return, while a just and agreed solution will involve reaching agreement on different modalities for the implementation these rights.

A quick review of previous negotiations on refugees between the PLO and Israel offers some insight into the respective positions staked out by both sides. The issue of refugees was discussed during negotiations at Camp David (2000), Taba (2001), and Annapolis (2008). Not surprisingly, the most contentious issue during all three

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http://daccess-dds-ny.un.org/doc/RESOLUTION/GEN/NR094/240//IMG/NR024094.pdf?OpenElement

[15] The full text of the Arab Peace Initiative is retrievable online at:
http://news.bbc.co.uk/2/hi/middle_east/1844214.stm

[16] Ibid.

rounds was Israel's refusal to accept the voluntary return of Palestinian refugees. At Camp David, Palestinians presented a draft framework agreement that gave refugees an unlimited right to return, and that included modalities to regulate the timing and sequence of their repatriation. For its part, Israel insisted that it bore no responsibility for the fate of Palestinian refugees. Its position remained firmly wedded to the following a) no recognition or acknowledgment of responsibility for Palestinian displacement; b) the majority of refugees to be resettlement outside Israel, with only a nominal number to be accepted into Israel on humanitarian grounds at Israel's discretion; and c) refugee compensation claims to be funded by third parties and tied to compensation for Arab Jews.

At Taba, negotiations over refugees largely followed the guideline proposed by former US President Bill Clinton in late December 2000. The Clinton Parameters, as they came to be known, included five possible modalities for implementation of the right of return, namely i) return to the state of Palestine; ii) return to areas in Israel to be transferred to Palestine under a land swap agreement; iii) the rehabilitation of refugees in their host country; iv) the resettlement of refugees in a third country; and v) admission to Israel.[17] While the first two options were to be open to all refugees, the last three were subject to the discretion of the individual countries involved. With regards to admission to Israel, Clinton encouraged the latter to "establish a policy so that some of the refugees would be absorbed into Israel consistent with Israel's sovereign decision."[18] While generally more positive than Camp David, agreement of most issues remained elusive at Taba.

At Annapolis, questions of return and responsibility again proved the major sticking points. Palestinians pushed for a solution based on the API. This included an acknowledgement by Israel of its responsibility for Palestinian displacement, recognition of the right of return for Palestinian refugees (including their right to restitution and compensation), and agreement on modalities for the latter's implementation. In contrast, Israel pushed for resolution of the issue based on humanitarian considerations only, while deferring all practical solutions to third parties. This included acceptance of a limited number of Palestinian refugees into Israel based on humanitarian grounds only, and at Israel's discretion, while looking to both third parties, and the creation of a Palestinian state, as providing the main solution for resolving the refugee question (namely resettlement in host country, relocation to a third country and relocation to a future Palestinian state). Israel also wanted the international community to contribute the majority of funds to cover compensation claims made by Palestinian refugees.

Current Israeli Policy

Israel's policy has long been outright rejection of the right of return for Palestinian refugees, coupled with a refusal to acknowledge its responsibility for their plight. It continues to reinforce this position with a number of policies and practices that

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[17] The full text of the Clinton Parameters are retrievable online at: http://www.peacelobby.org/clinton_parameters.htm

[18] Ibid.

prevent the return of Palestinians. In addition to the positions Israel has adopted during negotiations as highlighted above, successive Israeli governments have also promoted a range of narrow and often technical interpretations of UNGAR 194 intended to both weaken it, as well as absolve Israel of its basic responsibilities. The following is a sample of some of the more common arguments promoted by Israel:

- The wording of UNGAR 194 does not imply a legal obligation – in particular, Israel has argued that inclusion of the wording "should be permitted [to return]," rather than "must be permitted," removes any legal obligation on Israel to repatriate refugees. In reality, however, repatriation is an inalienable right belonging to Palestinian refugees (thus use of the term "right of return"). Recognition of it as such undermines Israel's claim that the term "should" implies a non-obligatory character regarding return.

- UNGAR 194 does not impose an obligation on Israel to repatriate Palestinian refugees before concluding a final peace agreement – Israel has argued that for reasons of 'security', any future repatriation of Palestinian refugees is conditional on reaching a comprehensive peace agreement with both Palestinians as well as neighboring Arab states. In many ways, this is the de facto position of the bilateral negotiations. However, nowhere is this included as a provision of UNGAR 194. Instead, it is designed to enable Israel to leverage the question of Palestinian refugees against a final status agreement.

- Because it fails to list a specific date for repatriation, UNGAR 194 does not conceive of return as a right – UNGAR 194 calls for the return of Palestinian refugees "at the earliest practicable date." Israel has used this to argue that UNGAR 194 does not conceive of return as a right because immediacy to the obligation is missing. Legally indefensible, this argument distorts the fact that the wording used by the UN General Assembly reflects its recognition that the successful repatriation of Palestinian refugees will require a substantial amount of preparatory work and agreement.[19]

- Israel's sovereignty overrides UNGAR 194 and the right to return – Israel has argued that the principle of state sovereignty, which safeguards the right of each state to exercise jurisdiction over its territory, overrides UNGAR 194 and the right of return. This argument tries to use state sovereignty to absolve Israel of its obligations under international law. Not only is this inconsistent with UN Resolutions, as well as general legal opinion, but international human rights law is but one example where the principle of state sovereignty is no longer sacrosanct.

- UNGAR 194 empowers Israel to determine which Palestinians qualify to exercise their right of return – Israel has argued that UNGAR 194 only mandates the return of those refugees wishing to "live at peace with their neighbors," and that Israel alone is qualified to determine who those refugees may be. This argument runs counter to the very premise of the right of return as an individual right, one that safeguards

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[19] Indeed, UNGAR 194 establishes a Conciliation Commission charged with undertaking just such preparatory work.

the right of each refugee – rather than Israel – to choose whether to return.

• UNGAR 194 also provides for the right of return and compensation for Jewish refugees displaced during the 1948 war – this is an argument that periodically resurfaces in Israeli politics, in which the right of return for Palestinian refugees is made conditional upon the prior settlement of Jewish refugee claims from 1948. Not only does this hold Palestinian refugees somehow answerable for Jewish displacement in 1948, it places conditions on the right of return that are inconsistent with its status as inalienable right. Compensation for Jewish refugees is a matter to be resolved bilaterally between Israel and those Arab states from which Jews were displaced in 1948.

In addition to the arguments listed above, the demand that Palestinians recognize Israel as a "Jewish state" has become a common refrain among the Israeli leadership.[20]How the PLO characterizes Israel, however, has little if any bearing on the laws and policies that regulate life inside Israel. Such a demand is instead intended to undermine the PLO permanent status position on refugees before negotiations even begin. Recognition of Israel as a "Jewish state" by the Palestinian leadership would not only entail sanctioning the various forms of discrimination Palestinians face inside Israel, it would also prioritize Israel's demographic concerns (maintenance of a "Jewish majority" in Israel) over the rights and reparations accorded to Palestinian refugees under international law.

Status Quo

Few would disagree that Palestinians have made little if any headway on the issue of refugees. Some of the reasons for this have been outlined above, of which three are worth repeating. First, as the Palestinian national movement transitioned from a liberation struggle to a movement for independence, the question of return was progressively marginalized and all but forgotten. As the political priorities of the Palestinian leadership changed, so did their focus, as well as their level of commitment to finding a just solution for refugees. At least for the last two decades, if not longer, there have been no major diplomatic initiatives on refugees to speak of initiated by the Palestinian leadership.

Second, the signing of the DOP further consolidated this trend. Resolution of the refugee issue was not only deferred until final status talks, it was put on permanent hold as the Palestinian leadership preoccupied itself with the more immediate challenges associated with its newly assigned roles, responsibilities and obligations under the "peace process." The right of return seemed far removed from the daily challenges of "self-governance" under occupation, while the authority of the PLO, the body charged with representing all Palestinians, was progressively usurped by the new political arrangements taking shape on the ground. Furthermore, the new structures of

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[20] During his speech before the United States Congress in May 2011, Benjamin Netanyahu at one point says "It is time for President Abbas to stand before his people and say: «I will accept a Jewish state.»[…]Those six words… will convince the people of Israel that they have a true partner for peace." For the full text of the speech, see: http://www.mfa.gov.il/MFA/Government/Speeches+by+Israeli+leaders/2011/Speech_PM_Netanyahu_US_Congress_24-May-2011.htm

Palestinian self-rule established under the DOP were anchored in the formal separation of Palestinians into a series of discreet subgroups harboring often conflicting interests. Fragmentation came to replace unity as the organizing principle for Palestinian politics and political representation in the wake of the DOP. This only compounded the political isolation of refugees, who no longer had a consistent voice or any real purchase over key Palestinian decision making.

Third, despite the passage of time, and notwithstanding minor progress made during negotiations, Israel's intransigence on the refugee question has remained virtually unchanged. For decades, successive Israeli governments have both denied Israel's moral and legal responsibility for Palestinian dispossession and displacement, and contested its responsibilities under international law. If anything, Israel has only tightened and extended a number of laws and policies designed to prevent Palestinians from returning, relocating or even visiting Israel.

In addition to the above, the different approaches adopted by Palestinians and Israelis with respect to advocacy on the refugee issue have had a significant effect. Reluctant to deal with the issue of refugees in any substantive way within the context of bilateral negotiations, Israel has instead focused its efforts on lobbying key partners directly in the hope of winning broad support or sympathy for Israeli "red lines" regarding the right of return. Its primary goal has been to reframe the right of return as first and foremost a demographic threat to Israel's Jewish majority – rather than a legal right Israel has long denied to Palestinians – and to firmly entrench this as the starting point of any international engagement on the issue. In contrast, the PLO has concentrated its efforts on finding a workable solution for refugees within the framework of bilateral negotiations, and focused much less on securing international understanding and support for the rights of Palestinian refugees per se. Furthermore, its singular focus on negotiations has often translated into a failure on the part of the PLO to publically communicate a clear and consistent position or policy on refugees, least of all to Palestinian refugees themselves, or to articulate a clear set of Palestinian "red lines" concerning the right of return. Whether justified or not, this has only added to public fears that the issue of refuges is largely seen by the Palestinian leadership as a bargaining chip to be used to exact "concessions" from Israel on issues such as borders and Jerusalem.

These divergent strategies have played to Israel's advantage. While the indefinite deferral of negotiations has all but neutralized the impact of the PLO's approach, it has bought Israel ample time to influence the way key members of the international community perceive and evaluate the right of return and UNGAR 194. Today, talk of finding a 'realistic' solution among many in the international community is evidence enough of the success Israel has achieved in influencing international opinion, or at least gaining international acceptance of its demographic argument.

Options for Strengthening the Refugee Issue

The following are options intended to help change the status quo. Four options are listed here.

Reframe the Issue of Refugees within the Context of Palestinian Statehood

This option involves reformulating refugee policy within a more state-centric framework, in an attempt to align it more closely with the current political priorities of the Palestinian leadership. Possibilities include:

1. Highlight the potential of refugees to support current state-building efforts, as well as their importance to the success of a future Palestinian state – refugees have the potential to offer much needed professional know-how and expertise crucial to the success of a future Palestinian state, and are the most likely outside source of investment in such a state. They also have access to various international networks in business, politics and other areas. This option could include commissioning a series of studies to assess the likely contribution and importance of refugees in the future.

2. Focus on absorption capacity as part of state-building – undertake a comprehensive study regarding the potential of a future Palestinian state to absorb large numbers of refugees, with a particular focus on what this will entail in practical terms (infrastructure, economic and residential development, service provision, institutional support, including the role of UNWRA, and so forth). Factor this into any state-building agenda or plans.

3. Develop programs to encourage refugee return – develop and encourage flexible programs that are designed to facilitate the (temporary) return of Palestinian refugees to the occupied Palestinian territory (oPt) for the purposes of work, the sharing of expertise and so forth. These will have to take into account the restrictions of Israel's visa regime. Programs such as the UNDP's TOKTEN serve as a potential model.

4. Virtual Palestine – encourage the 'virtual return' of Palestinian refugees through new media capable of facilitating new modes of connectivity to Palestine (not necessarily limited to state-building).

While Palestinians have a high capability to promote many of these options, subordinating the right of return to the Palestinian Authority's current state-building agenda runs the very real risk of significantly undermining this right for no tangible gain. This includes limiting options for return to a future Palestinian state within the 1967 border, as well as introducing new and selective criteria for return. It also threatens to lower the benchmark for international support and engagement with the issue of refugees.

Recalibrate PLO Policy on Palestinian Refugees

The PLO's policy on refugees remains shrouded in ambiguity despite the work that has been done within the framework of negotiations. In part, this is the result of poor communication, particularly when it comes to refugee communities themselves. However, it also reflects a set of deeper contradictions contained within the PLO's policy itself, as well as in the negotiations format per se. While holding fast to the right of return as an inalienable right, the PLO's 'menu of options' in reality amounts to a series of

negotiated alternatives designed to avoid just such an outcome. Absent is any sustained attempt on the part of the PLO to develop a realistic menu of options or modalities for actual return, a task perhaps most famously taken up by Salman Abu-Sitta.[21] At the same time, while the PLO continues to appeal to the right of return as both inalienable and non-negotiable, its inclusion as a permanent status issue in bilateral negotiations subjects it to a framework that promotes agreement based on interests rather than the application of international law. [22]

1. The alternatives for recalibrating PLO policy listed below largely correspond to the different options identified in this chapter. They are neither exhaustive in scope, nor particularly detailed. Rather, their aim is to identify possible ways to reorient PLO policy depending on the context:

2. Refugees and negotiations – prioritize agreement on the right of return as a condition for bilateral negotiations and/or Palestinian acceptance of a two-state solution. This includes establishing clear terms of reference as well as clear Palestinian "red lines" with respect to refugees.

3. Refugees and political organization – undertake institutional reforms consistent with the prioritization of refugees (see Option 4 below).

4. Refugees and public outreach I – initiate an extensive outreach campaign independent of negotiations, targeting key international partners with the aim of deepening international understanding and galvanizing international support for the rights of Palestinian refugees, including their right to repatriation. This campaign should advocate a rights based framework for solving the refugee question (as distinct from negotiations), foster appreciation for the importance of a just solution for refugees as key to achieving a lasting peace, and emphasize the obligations of the international community under international law.

5. Refugees and public outreach II – initiate extensive consultations with refugee communities to include them in decision making and/or prepare them for a negotiated agreement (see Option 3 below).

6. Refugees and the reorientation of Palestinian politics – prioritize the rights of Palestinian refugees as the principle cause and organizational focus of Palestinian political strategy. More than any other issue (save that of rejecting the two-state solution), this has the potential to radically reorient Palestinian political priorities and engender new modalities of engagement. In particular, it will demand a radical rethink of current Palestinian strategy and political frameworks.

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[21] Salman Abu-Sitta, "The Right of Return: Sacred, Legal and Possible," in Naseer Aruri (ed.), *Palestinian Refugees: The Right of Return,* Pluto Press: London, 2001, pp. 195- 207

[22] Indeed, many of the fears refugees hold today are related directly to the uncertainty created by negotiations, which many believe create an environment in which the Palestinian leadership can be coerced, or will be tempted to trade away some of their rights to make gains on other permanent status issues, or for the sake of an overall agreement. Like all displaced people, refugees have three basic rights: the right of return, the right to restitution, and the right to compensation. These are individual rights based on customary international law as well as UNGAR 194, which at least in theory, cannot be negotiated or traded away

3. Initiating National Dialogue on the Issue of Palestinian Refugees

Part of the uncertainty and fear generated by the PLO's position on the refugee question relates to the secrecy surrounding bilateral negotiations, with few individuals privy to the full details of these discussions. Adding to this uncertainty is the near total exclusion of Palestinian refugees from key Palestinian political decision making. Current political arrangements under the DOP have all but excluded Palestinian refugees as political actors, weakened Palestinian democratic institutions and further fragmented the Palestinian body politic.

This option aims to bring refugee policy out of the shadows and into the open, repositioning it back in the public domain. The overall goal is twofold: first, to ensure Palestinian refugees have a say in determining their future by having greater input into refugee policy formulation, and second, to foster where possible a consensus position on refugees that enjoys broad public support. The latter will entail identifying acceptable 'compromise' positions that most Palestinians would be willing to accept, as well as clearly delimiting Palestinian 'red lines' regarding the right of return.

To date, the Palestinian leadership has shied away from such an approach, fearing that it would lock them into a specific policy track, and severely limit their flexibility during negotiations. Such an approach, however, would help to restore some public confidence in negotiations, as well as provide the PLO with much firmer footing in its negotiations on refugees. It also promises to significantly strengthen the PLO's hand when it comes to countering outside pressure (particularly from Israel and the US) to make unrealistic compromises on refugees. Possible approaches include:

Convening a National Conference – this would be done under the auspices of the PLO and would include a broad cross section of Palestinian refugees and representative groups from across the West Bank and Gaza, the Arab region, and from countries further afield such as the US, Europe, Australia, Canada and elsewhere. The conference will need to be hosted outside of the oPt given entry restrictions, reinforcing Palestinian displacement and the continued relevance of the right of return. In addition to logistics, preparation for such a conference would necessarily include a series of pre-conference public consultations/workshops resulting in an initial draft policy to be presented, debated, modified and adopted during the conference. The schedule may include plenary sessions, workshops, seminars, and roundtable discussions, as well as designated media opportunities. Open debate, as well as due democratic process, will be crucial to both the success of the conference as well as its perceived legitimacy. 'Observer status' can be offered to non-Palestinian sector stakeholders.

Convening a number of regional conferences – rather than a national conference, the PLO may choose to initiate a series of smaller regional conferences following much the same format described above for the national conference. Each regional conference would debate the same draft policy, while all recommendations would then be fed into a final draft to be approved by the PLO Executive Committee.

Holding a national referendum: The PLO has pledged to submit any negotiated agreement reached with Israel to a national referendum involving all Palestinians. The modalities for such a referendum remain unclear. However, given the failure of

negotiations to end decades of exile and occupation, the PLO could consider submitting its refugee policy and possible steps forward for public referendum.

Holding ongoing public consultations – this would involve the PLO finding a way (or ways) to facilitate open public consultations with refugee communities both inside and outside the oPt regarding formulation of its refugee policy. These consultations could be ongoing and held periodically, or could be triggered in response to challenges and opportunities as they arise.

Both the process of reaching public consensus on a set of Palestinian 'red lines' regarding the issue of refugees, as well as the renewed importance attached to the issue by the PLO, will help to unite a fragmented Palestinian body politic. Similarly, initiating public consultations and helping to steer public debate on refugee policy in a responsible and constructive way will serve as a show of leadership on the part of the PLO.

4. Reforming the PLO and Holding PNC Elections

The DOP not only divided the Palestinian people into a series of discrete categories, but also imposed a corresponding political framework that excluded the majority of Palestinians from formal political representation as well as participation in key political institutions. Symptomatic of this turn has been the relative marginalization of the PLO. Reliant on foreign funding as well as cooperation with Israel in order to provide basic services to Palestinians, many see the Palestinian Authority as complicit with Israel's occupation, effectively absolving Israel of its responsibilities as an occupying power. Within the framework of the DOP and 1995 Interim Agreements, Israel has been able to divert Palestinian energies and all but neutralize Palestinian politics.

Many believe that institutional reform and renewal of the PLO is central to overturning the current political woes Palestinians face. This scenario entails expanding the membership of the PLO to include Hamas, and holding fresh elections for the Palestinian National Council (PNC), with voting rights extended to all Palestinians. This is in keeping with international law, which attaches sovereignty and self-determination as rights vested in the Palestinian people. Similarly, all Palestinians have an inalienable right to take part in the conduct of Palestinian public affairs, whether directly or via democratically elected representatives. The PLO provides the only institutional address for both, and within the current climate, is alone capable of uniting Palestinians around a more inclusive and democratic national agenda, one in which the return of refugees is sure to have a prominent place.

Palestinians have a medium capacity to promote this scenario, though questions remain over the feasibility of holding large-scale PNC elections as well as third country cooperation. Possible implications of such a scenario for the PA are also unclear. Will a reformed PLO/PNC spell the end of the PA, and if so, what are the potential ramifications? What will be the power-sharing relationship between the PLO/PNC and the PA should the latter remain? Will the PNC reestablish itself as a parliament in exile, and if so where? What avenues are available for the PLO to push forward a new democratic agenda for Palestinians (the UN, building international solidarity and support, waging a popular resistance campaign etc)? These and other questions will need to be answered.

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Trapped by Denial of Rights, Illusion of Statehood: The Case of the Palestinian Refugees in Lebanon[23]

Jaber Suleiman

The bid by the Palestine Liberation Organization (PLO) / Palestinian Authority (PA) to join the United Nations has posed additional challenges to the already precarious status of Palestinian refugees in Lebanon. Since they sought refuge there in 1948, their economic, social and cultural rights have been neglected by the Lebanese authorities. The bid to join the UN comes amidst a growing struggle within the Palestinian community in Lebanon to have their rights recognized by the Lebanese government in order to overcome their economic, institutional, and spatial marginalization.

Palestinians in Lebanon have taken different positions towards the bid. Fatah and PLO factions have cheered enthusiastically for it, whilst Hamas and the Islamic Jihad Movement have harbored reservations and rejected it. Civil society organizations, especially the committees and bodies of the return movement, have explicitly rejected the bid and even accused the PA of betrayal and squandering national rights in the "game of nations." They fear that the UN bid could undermine the inalienable rights of the Palestinian people; namely, their rights of return and self-determination.

The real popular position towards the statehood bid in Lebanon can be gauged by comparing the public celebrations organized by the Fatah and PLO factions in support of the bid under the title "Palestine: the 194th State" in the UN with civil society responses. Typically, the events lacked popular support and were mainly attended by members and loyalists of the PLO/PA. In contrast, the events organized by civil society such as the Return March on the 63rd anniversary of the Nakba (May 15, 2011) were greeted with popular enthusiasm.

The statehood bid began in Ramallah, where it was launched with a chair made of Palestinian olive wood and featuring the emblem of the UN. The chair later arrived in Lebanon and toured the refugee camps, which is why it was called "The Palestine UN Chair Campaign." The Return March, on the other hand, was a genuine Palestinian civil society initiative. The Return March was distinguished by the fact that it sprang from the refugee camps and involved around 70,000 Palestinian participants, mostly Diaspora-born third generation Palestinians of the Nakba. The sight was spectacular; many members of this generation carried their grandparents on their backs as they climbed up to Maroun Al-Ras overlooking Palestine. They tore through the barbed wires separating them from the land of their ancestors. Six of them fell as martyrs at the fence, bringing down with them the wretched Zionist concept "the old ones die, the younger ones forget."

The Return March communicated its message successfully to the Lebanese state and society, a message of upholding the right of return and rejecting resettlement. The

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[23] This position paper is co-published with Al-Shabaka: The Palestinian Policy Network [logo] as one of its policy briefs. The IALIIS position paper is a summary of the Al-Shabaka policy brief; the full brief can be read at www.al-shabaka.org.

March proved that for the majority of Palestinians, "return" means the opposite of Nakba, of asylum and exile, and that the thought of returning to their homes in Palestine has remained the force driving the contemporary Palestinian struggle and the dream that has become part of the collective memory of shared grief, suffering, and hope.

Palestinian refugees are excluded from participating in Lebanese cultural and social institutions, and the refugee camps have been turned into semi-isolated islands functioning as containment centers for the refugees who are viewed as a threat to the host society. This marginalization of the Palestinian community is often associated with a history of ongoing violence and displacement, although there were times when things were different. Currently, Palestinian refugees are designated a "special category of foreigner", under Lebanese law. Their right to work is subject to severe restrictions including the requirement to obtain a work permit, the principle of reciprocity, and national preference. Further, they have been deprived of the right to own property since the law on foreign ownership was amended in 2001. They are also denied health care services and treatment at government hospitals and their enrollment in public schools and universities is subject to the principle of national preference.

Palestinians continue to be banned from practicing liberal professions including medicine, law and engineering, since the right to practice such professions is dependent on state reciprocity, which cannot apply to the Palestinian situation. Thus, Palestinians are only allowed to do manual and clerical jobs provided that they obtain a work permit.

Palestinians in Lebanon are aware the Lebanese state and elite considers the conference of further rights upon them a step towards the integration and eventual resettlement of Palestinian refugees. However, Palestinians from all factional affiliations and civil society believe that obtaining these rights would support their struggle for return and enable them to thwart any resettlement scenarios in Lebanon or elsewhere. Palestinians in Lebanon consider their struggle for basic human rights as simply a way to alleviate their daily suffering and a strategy to survive as well as an assertion of their longstanding and steadfast struggle towards preserving their national identity and realizing their dream of return.

Despite the seemingly intractable nature of the impasse faced by the Palestinian refugees in Lebanon, there are several practical ways forward. The Lebanese government should harmonize Lebanese laws to international standards by creating a separate legal status for Palestinian refugees in Lebanon that distinguishes them from foreigners. It should also abandon the security-based treatment of the Palestinian civilian presence in Lebanon and replace it with a human security-based approach consonant with the human rights system and the holistic paradigm of development. Palestinians urgently need to establish a unified, authoritative Palestinian frame of reference for Palestinian rights that would be the basis for dialogue with the Lebanese institutions concerned. This should include all Palestinian factions as well as civil society organizations. UNRWA's continued existence must be ensured as the living witness to the birth of the refugee problem. Any bid for statehood must in all cases preserve the inalienable rights of the entire Palestinian people, chiefly their right of return and self-determination as well as the representational status of the PLO.

On the Permission, Privilege, and Courage to Narrate

Majid Shihade

Review of: Pappe, Ilan. 2011. *The Forgotten Palestinians: A History of the Palestinians in Israel.* New Haven and London: Yale University Press.

Pappe's work attempts to bring more attention to the history of the Palestinians who are citizens of the state of Israel. A neglected group, according to the author, that "has been dubbed traitors both by the Palestinian movement in the 1950s and by current Israeli political forces. Theirs is an amazing story of almost impossible navigation in a sea of [Zionist] colonialism, [Jewish] chauvinist nationalism, {Jewish} fanatic religiosity and international indifference," (10, 12). Pappe observes that theirs is also a history of "discrimination and dispossession but also a history of self-assertiveness and steadfastness" (7). The presence of a Palestinian minority after the 1948 war on Palestine and the creation of the Israeli state was not envisaged by the leaders of the Zionist movement, and thus they withstood a continuous ethnic cleansing campaign (2829-). Furthermore, Pappe points out that they were able to remain on their lands in 1948 due to their resistance and also the fatigue of Israeli army (25).

The importance of studying '48 Palestinians, according to Pappe, is because "It is only through a history of the Palestinian minority of Israel that one can examine the extent to which the long-lived Zionist and Israeli desire for [Jewish] ethnic supremacy and exclusivity has brought about the current reality on the ground [for all Palestinians]" (11). The book is a history of the community from 1947 to the present, based on Israeli official accounts as well as the Palestinian community's perspectives, and is more akin to a people's history rather than a study based on state or dominant historical narratives (13 - 14). The lives and histories of '48 Palestinians have been shaped by the dialectics between events in the Arab world and within different Palestinian communities, while they have produced their own history of steadfastness and resistance to Israeli policies (96).

As a result of the war on Palestine in 1948, 750,000 Palestinians were expelled and 78 percent of Mandate Palestine was occupied or colonized, while 160,000 of the indigenous population remained. Today they are about 1.5 million Palestinians within the state of Israel, and more than third are internal refugees (18). While by 1948, only 7% of the land was owned by Jews and Jewish/Zionist organizations, today only 2.5% of the land is under Palestinian ownership (19). Moreover, only one hundred out of 500 Palestinian villages remained, and all major towns or cities were occupied and transformed into Jewish towns or cities (21), that are surrounded by Jewish settlement colonies (26).

While early Zionist settlers referred to native Palestinians as aliens (1), "the perception of the Palestinians as unwanted and unwelcome has remained a potent part of Zionist discourse and attitude in what became Israel in 1948, and they continue to be regarded and treated as a dangerous threat in their own homeland. This attitude permeates the Israeli establishment, and [is] expressed in various different ways" (2). They have

been the object of policies of discrimination and exclusion in all aspects of their lives, including arrests, imprisonment, and other forms of violence and repression (5). The state is not only Jewish, [by self-definition], but also anti-Arab and anti-Palestinian in its ideology and practices (102). Pappe writes of the Israeli phobia of Palestinians, which is better understood as not only a colonial projection onto the colonized, but also an imperial nightmare of seeing evidence of one's own crimes of violence and annihilation, which is reflected in the containment and encampment policies of gates, walls, and enclaves (114, 246). Palestinian citizens of Israel continue to experience "total violation of the rights to own property, land, identity or culture, or to receive full state benefits and rights. This was achieved through military rule, direct or indirect occupation, and through Israel's semi-apartheid policy" (267). It is a state that even contemplated the forcible removal of Palestinians from the state (277).

While Pappe argues that discrimination against the Palestinian citizens of Israel constitutes a system of latent apartheid, he also admits that the discourse of transfer, or expulsion of Palestinians, is not only tolerated in Israel, but actually wins electoral support from the Jewish public (7- 8). This is one of the factors that has led to the ghettoization of Arab villages and of Arabs living in cities (20- 23). The official narrative about '48 Palestinians propagated by the state constantly warns the public of the "threat of Arab takeover of land in the north and south of Israel" (2), and the Israeli media describes Palestinian citizens as a "demographic time bomb" (3). This imagery is more of a projection and in fact, a reflection of the original sin haunting the Israelis and their leadership, an anxiety that has even led to the banning of public commemoration of the Nakba—the 1948 catastrophe (4).The war on memory and national identity is central to the Israeli project, and thus the state designated '48 Palestinians according to their religious affiliations. Thus, Jewishness became ethnicized and Palestinians denationalized (24).

'48 Palestinians lived under military rule from 1948 to 1966, under a system of political repression which entailed checkpoints and permits to leave one's own village (46). Yet, the apparatus of military rule, discrimination, and repression continue to this day, through a military rule by other means (79). Palestinians in Israel also lived through massacres such as Kafr Qassim in 1956 (55), and through visible military repressive policies and material dispossession in addition to invisible, economic and other policies aimed at marginalizing and suppressing the community (95). In Pappe's view, Israel is a military with a state, in a sense, a formation which is "part of the state's foundation and raison d'état of a non-democratic founding settler colonialist ideology (272).

While the military regime imposed on '48 Palestinians was transplanted to areas occupied or colonized by Israel in 1967, it was replaced in '48 areas by a web of legislation and rules to maintain "segregation, obedience, and co-optation." These were constitutive of an "apartheid legal structure favoring Jews [to avoid being openly targeting Palestinians], and left room for Israeli officials to act outside the law to repress Palestinians supported by racist public mood (979 -8). The state formulated policies of informal segregation through laws and practices in several domains , with glass ceilings and walls of restriction and segregation (95,100).

Pappe describes Israel as a state oppressive to its Palestinian citizens-- a "Jewish secret service state" (13) rather than an ethnic democracy or ethnocracy (265), the terms often used even among liberal scholars in Israel and the U.S. The Emergency Regulations adopted by Israel since 1948 include "two hundred regulations enabling the state to legally declare any part of the country a closed military area, exercise administrative arrests without trial, expel and even execute citizens," and are still intact to this day (264). The Palestinian minority's daily and future fate is in the hands of this Israeli secret service apparatus. The secret-service state has a built-in state ideology and structure that affects all Palestinians who live in the Mandatory Palestine area and even those who were exiled and subjected to ethnic cleansing policies carried out since 1948 (265). Thus, according to Pappe, Israel is a "hybrid between a settler colonial state and a secret-service regime imposed on the Palestinian population (266).

Pappe critiques Israeli scholarship that has been complicit in racist and Orientalist portrayals of Palestinians, noting that "inside and outside Israeli academia, the Palestinian minority was not only considered to be primitive and non-modern, but also as one which would never become modern unless it was de-Palestinianized and de-Arabized. Since these perceptions were prevalent in the academia and media, as well as in the corridors of power, one can see why the removal of military rule after 1967 did not change much in practice" (278). Although Pappe is correct to point out that little attention has been given to this community in existing scholarship, and his work is one of the few studies to date, he does acknowledge in the appendix some major works by '48 Palestinian scholars who have been writing on the subject for decades.

Finally, for Pappe, naming the state as such (a settler colonial, military, secret-service state) can help not only to expose it, but also to block the state from doing worse, and give Palestinians hope for change (274). A state "that was never condemned worldwide" has instead enjoyed world-wide tolerance and even support (especially by countries in the West), which has legitimized the ethnic supremacist Jewish state and encouraged its expansionist appetites (267- 268).

I would like to conclude by arguing that scholarship on Palestine is bedeviled by the tension that exists between the difficulty arising from the permission to narrate and the privilege to narrate (Edward Said, "Permission to narrate," London Review of Books, Vol. 6 No. 3. 16 February 1984, pp.13- 17). Prestigious academic platforms are rarely available to Palestinian scholars, whose every word (if critical of Israel) is generally questioned by skeptical reviewers and readers and often quickly attacked by unsympathetic critics, especially in the West and particularly in North America. Hence, there is a timidity among many scholars in the field to push the limits of what is "acceptable" knowledge or critique. In this light, Pappe's work is very important, for naming, theorizing, and public knowledge production must match the "private" discourse among scholars in the field and their critical discourse outside the academic sphere. This is not only an issue of intellectual competency, courage, and honesty, but it also bears ramifications for the people under study and for their lives and deaths. While it is true that is very difficult, and risky, to speak freely about Israel/Palestine in the Western and especially U.S. academy, it is also true that we need to match private analyses or political slogans

with public critique and academic work so that change is possible. Discourse, after all, as Edward Said reminded us, is a very powerful tool of domination but it also can be used for liberation. Using terminology that precisely and unflinchingly describes Zionism as a racist, settler-colonial ideology and the Israeli state as an ethnic supremacist Jewish state is not about sloganeering, but about being honest in presenting knowledge and analysis accurately for students and readers alike. For that purpose, this book is an essential work to be read and important contribution to the field.

High Technology and Palestinian Nationalism[1]

Majid Shihade

Review of: Aouragh, Miriyam. 2011. *PALESTINE ONLINE: Transnationalism, the Internet and Construction of Identity.* London and New York: I.B. Tauris, 2011.

In the book Palestine Online, Miriyam Aouragh discusses the use of internet technology among Palestinians based on fieldwork in three different locations: Palestine in 2001-02, among Palestinian refugees in Jordan in 2003, and in Lebanon in 2003-04 (p.30). In addition to doing participant observation, she interviewed academics, internet café customers and owners, and some of those who lead the implementation of new technologies in Palestine.

In this book, Aouragh discusses how Palestinians use the internet while living in Palestine under Israeli colonial rule or, having been expelled by the Israelis, in exile. It shows how the internet is used as a source of mobility to overcome the Palestinians' state of immobility, and how the internet as a space and instrument links the Palestinians in the West Bank and Gaza with those in refugee camps in Jordan and Lebanon, despite their physical separation by state boundaries and travel restrictions. For Aouragh, this phenomenon is about space and technology, which helps maintain and strengthen communication not just among Palestinians, but also with other global audiences (p.2).

The book is divided into six chapters and an epilogue. Chapter One is focused on the role of the internet in Palestine and how it is used to communicate with the rest of the world as a tool of a a specifically Palestinian media. Chapter Two highlights the tension between this virtual mobility and physical immobility on the ground. Chapter Three discusses how Palestinian immobility created a need for the emergence of internet initiatives that could overcome immobility, occupation, exile, and forced migration. Chapter Four examines the relationship between virtual space and territorial place as it relates to national identity and the nation-state in the absence of sovereignty, and how the events of 1948 structure memory and identity. Chapter Five is a study of Palestinian websites, and Chapter Six a discussion of the everyday use of internet technologies and internet cafés.

According to Arrough, these "…multi sited ethnographies makes [sic] clear that Palestine, as one nation, effectively exists in multiple states; it…also propagates the narratives of discontent, contrasting the false portrayals…" of Palestine (p.2). Not only does this technology strengthen connections among Palestinians in different localities, but it is also able to counter Israeli and Western media misinformation and propaganda about the Palestinians. In this way, new technologies help to democratize and humanize mainstream narratives, which often work in tandem with Israeli propaganda to dehumanize Palestinians and repress the facts of criminal Israeli practices, while denying the Western role in Israesli repression, dispossession, and displacement of Palestinians.

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One of the drawbacks of the book is that the category of Palestine is used to represent only those in the West Bank, Gaza, and the refugee camps in Lebanon and Jordan, without discussing the linkages these Palestinians have with their fellow Palestinians in Jerusalem, in the Galilee, and elsewhere. In a sense, this limited definition strengthens the already widespread understanding that Palestine only denotes the territories colonized by Israel in 1967 and the refugee population. In addition, the author, by speaking on the uses of internet among Muslims and how Islam and Muslim clerics view this technology, while partially relying on work done on the Gulf, contributes to the particularizing of Islam and Muslim attitudes toward internet use (see for example, p. 220). The study generalizes from research on Gulf Muslims to Muslims in other parts of the world, while similar debates on the benefits and costs of the internet actually have taken place around the globe. There are a large number of theoretical references, which seem sometimes more akin to name-dropping than actually integrating those concepts into the analysis to ground the work, and does not sufficiently shed light on the issues discussed here. Finally, there is much repetition throughout the book which makes it somewhat tiresome to read.

Still, despite these drawbacks and the need for a more reflexive anthropological approach, the book is useful in its reflection on the use of internet technology by Palestinians and the proliferation of mailing lists, news blogs, and websites in the face of Israeli wars, dehumanization, and denial. The book effectively demonstrates how this technology has been used to counter this reality and provide an alternative source of information and build linkages among Palestinians.